11–15–05 Tuesday
Vol. 70 No. 219 Nov. 15, 2005

Pages 69247–69420

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 70 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, December 6, 2005
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 70, No. 219

Tuesday, November 15, 2005

Agency for Healthcare Research and Quality
NOTICES
Meetings:
Health Care Policy and Research Special Emphasis Panel, 69343

Agriculture Department
See Animal and Plant Health Inspection Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
Canine melanoma vaccine; field testing, 69306–69307
West Nile virus vaccine, live flavivirus chimera; field test, 69307–69308

Army Department
See Engineers Corps
NOTICES
Environmental statements; notice of intent:
Fort Bliss, TX and NM, 69320–69321
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Low cost parachute, 69321

Census Bureau
NOTICES
Surveys, determinations, etc.:
Service industries; annual, 69310
Trade; annual, 69310–69311

Children and Families Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69343–69344

Coast Guard
RULES
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Cape Fear River, Eagle Island, NC, 69279–69282
Regattas and marine parades:
Annapolis Harbor, Spa Creek and Severn River, Annapolis MD, 69279
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69346–69347
Meetings:
Towing Safety Advisory Committee, 69347–69348

Commerce Department
See Census Bureau
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Defense Department
See Army Department
See Engineers Corps

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Special education and rehabilitative services—
National Institute on Disability and Rehabilitation Research, 69321–69325

Employee Benefits Security Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69355

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
RULES
Assistance regulations:
Financial rules and technology investment agreements; implementation, 69250–69272

Engineers Corps
NOTICES
Meetings:
Chief of Engineers Environmental Advisory Board, 69321

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans:
Ambient air quality standards, national—
Fine particles; hearing, 69302–69303
NOTICES
Meetings:
Clean Air Scientific Advisory Committee, 69338–69339
Science Advisory Board, 69340–69341

Executive Office of the President
See Presidential Documents

Federal Aviation Administration
RULES
Standard instrument approach procedures, 69272–69276
PROPOSED RULES
Airworthiness directives:
Airbus, 69288–69291
BAE Systems (Operations) Ltd., 69286–69288
Bombardier, 69291–69293
NOTICES
Aeronautical property sale:
Manchester Airport, Manchester, NH, 69378

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 69341

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation combined filings, 69332–69334
Electric rate and corporate regulation filings, 69334–69336
Environmental statements; notice of intent:
New York Power Authority, 69336
Hydroelectric applications, 69337–69338

Applications, hearings, determinations, etc.:
Cheyenne Plains Gas Pipeline Co., L.L.C., 69325
Dominion Transmission, Inc., 69325–69326
El Paso Natural Gas Co., 69326
Gulf LNG Energy, LLC, et al., 69326–69328
KGen Hinds LLC, 69328
Midwest Independent Transmission System Operator, Inc., 69328
NRG Power Marketing Inc., et al., 69328–69329
Overthrust Pipeline Co., 69329–69330
Public Utilities District No. 1, Snohomish County, WA, 69330
Questar Pipeline Co., 69330–69331
Questar Southern Trails Pipeline Co., 69331
San Juan Mesa Wind Project, LLC, et al., 69331–69332

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 69341–69342
Formations, acquisitions, and mergers, 69342
Permissable nonbanking activities, 69342

Federal Transit Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Transit assistance programs—
Certifications and assurances; FY 2006 annual list, 69380–69416

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Uinta mountainsnail, 69303–69305
NOTICES
Environmental statements; notice of intent:
Bi-State Water Diversion for the Walla Walla River Basin; habitat conservation plan; public scoping meetings, 69348–69350

Food and Drug Administration
RULES
Environmental impact considerations:
Humanitarian device exemption; categorical exclusion, 69276–69277
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69344–69345
Committees; establishment, renewal, termination, etc.:
Nonprescription Drugs Advisory Committee, 69345–69346

Forest Service
NOTICES
Environmental statements; notice of intent:
Okanogan and Wenatchee National Forests, WA, 69308–69310

Grain Inspection, Packers and Stockyards Administration
RULES
Graded commodities; review inspection requirements, 69249–69250

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Children and Families Administration
See Food and Drug Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69342–69343
Meetings:
American Health Information Community, 69343

Homeland Security Department
See Coast Guard

Industry and Security Bureau
NOTICES
Export privileges, actions affecting:
Constan-Tatos, Phaedon Nicholas Criton, 69311–69314
Suburban Guns Ltd., 69314–69316

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Minerals Management Service
See National Indian Gaming Commission
See Reclamation Bureau

International Trade Administration
NOTICES
Antidumping:
Ball bearings and parts from—
Japan; correction, 69316
Glycine from—
China, 69316–69317
Hot rolled carbon steel flat products from—
Brazil, 69317–69319
Stainless steel bar from—
France, 69319–69320
Countervailing duties:
Polyethylene terephthalate film, sheet, and strip from—
India, 69320
Meetings:
President's Export Council, 69320

International Trade Commission
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 69353–69354

Labor Department
See Employee Benefits Security Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Northeastern Great Basin, 69350
Oil and gas leases:
New Mexico, 69350
Texas, 69350–69351
Public land orders:
Utah, 69351

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 69359–69360

Minerals Management Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Outer Continental Shelf Scientific Committee, 69351–69352

National Archives and Records Administration
NOTICES
Meetings:
Electronic Records Archives Advisory Committee, 69360

National Indian Gaming Commission
PROPOSED RULES
Management contract provisions:
Minimum internal control standards; revision, 69293–69302

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
West Coast States and Western Pacific fisheries—
Western Pacific pelagic, 69282–69285
NOTICES
Environmental statements; notice of intent:
Bi-State Water Diversion for the Walla Walla River Basin; habitat conservation plan; public scoping meetings, 69348–69350

National Science Foundation
NOTICES
Meetings:
Materials Research Review Panel, 69360

Nuclear Regulatory Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Atomic Safety and Licensing Board, 69362
Operating licenses, amendments; no significant hazards considerations; biweekly notices, 69360
Reports and guidance documents; availability, etc.:
Spent fuel storage casks; interim staff guidance, 69362
Applications, hearings, determinations, etc.:
Entergy Nuclear Vermont Yankee, LLC, et al., 69360–69361
Nuclear Security Coalition, 69361–69362

Occupational Safety and Health Administration
NOTICES
Nationally recognized testing laboratories, etc.:
Supplier's Declaration of Conformity; product approval process alternative, 69355–69359

Pension Benefit Guaranty Corporation
RULES
Single-employer plans:
Allocation of assets—
Interest assumptions for valuing and paying benefits, 69277–69279
NOTICES
Multiemployer plans:
Interest rates and assumptions, 69363

Presidential Documents
PROCLAMATIONS
Special observances:
World Freedom Day (Proclamation 7960), 69247
ADMINISTRATIVE ORDERS
Trade:
Saudi Arabia; determinations under section 1106(a) of the Omnibus Trade and Competitiveness Act of 1988 (Memorandum of November 10, 2005), 69417–69419

Reclamation Bureau
NOTICES
Environmental statements; availability, etc.:
Colorado River Storage Project, UT; Flaming Gorge Dam, 69352–69353

Securities and Exchange Commission
NOTICES
Meetings; Sunshine Act, 69365–69366
Public Utility Holding Company Act of 1935 filings, 69366
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 69367–69372
Applications, hearings, determinations, etc.:
Berkshire Hills Bancorp, Inc., 69363–69364
PAB Bankshares, Inc., 69364
Polydex Pharmaceuticals Ltd., 69364–69365

Small Business Administration
NOTICES
Small business size standards:
Nonmanufacturer rule; waivers—
Commercial refrigerator equipment, 69372–69373
Household refrigerator equipment, 69373–69374
Photographic film, paper, plate, and chemical manufacturing, 69373

State Department
NOTICES
Arms Export Control Act:
Commercial export licenses; congressional notification, 69374–69377
Meetings:
Universal Postal Union Issues, 69377–69378

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration

Western Area Power Administration
NOTICES
Wyoming and Colorado; TOT 3, transmission capacity, comment request, 69338

Separate Parts In This Issue

Part II
Transportation Department, Federal Transit Administration, 69380–69416

Part III
Executive Office of the President, Presidential Documents, 69417–69419

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7960 69247
Administrative Orders:
Memorandums:
Memorandum of November 10, 2005 69419
7 CFR
868 69249
10 CFR
600 69250
603 69250
14 CFR
97 (2 documents) 69272, 69274
Proposed Rules:
39 (3 documents) 69286, 69288, 69291
21 CFR
25 69276
25 CFR
Proposed Rules:
542 69293
29 CFR
4022 69277
4044 69277
33 CFR
100 69279
165 69279
40 CFR
Proposed Rules:
51 69302
52 69302
50 CFR
660 69282
Proposed Rules:
17 69303

Federal Register
Vol. 70, No. 219
Tuesday, November 15, 2005

Presidential Documents

Title 3—

The President

Proclamation 7960 of November 9, 2005

World Freedom Day, 2005

By the President of the United States of America

A Proclamation

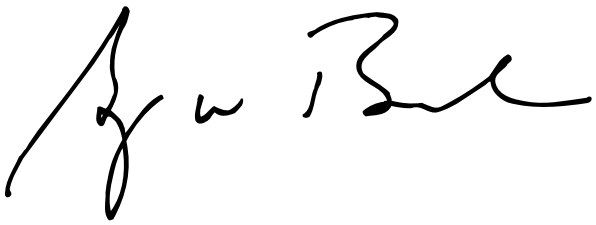
On November 9, 1989, citizens of East Germany crowded the checkpoints at the Berlin Wall and forced their way to freedom. In the ensuing weeks and months, this unquenchable thirst for liberty led to the collapse of the Soviet empire and the downfall of communism in the Soviet Union. Today, most of the Central and Eastern European nations that once formed part of the Soviet bloc are thriving democracies and allies in the cause of peace and freedom.

The fall of the Berlin Wall showed the world that the love of liberty is stronger than the will of tyranny. In this new century, free nations are again responding to a global campaign of terror with a global campaign of freedom. We are working to extend the promise of freedom in our country, to renew the values that sustain our liberty, and to spread the peace that freedom brings.

On World Freedom Day, we commemorate the fall of the Berlin Wall and the reunification of the German people. We honor the men and women who fought against communist oppression and all those who continue to fight against tyranny. We also renew our commitment to advancing liberty, democracy, and human rights.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 9, 2005, as World Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities and to reaffirm their dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of November, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.



[FR Doc. 05–22743
Filed 11–14–05; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 70, No. 219
Tuesday, November 15, 2005

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 868

RIN 0580–AA89

Review Inspection Requirements for Graded Commodities

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is amending the regulations under the United States Agricultural Marketing Act of 1946 (AMA), as amended, to allow interested persons to specify the quality factor(s) that would be redetermined during an appeal inspection or a Board appeal inspection for grade. Currently, both appeal and Board appeal inspections for grade must include a redetermination (i.e., a complete review or examination) of all official factors that may determine the grade, as reported on the original certificate, or as required to be shown. Requiring that all quality factors be completely reexamined during an appeal or Board appeal inspection for grade is not efficient, is time consuming, and can be costly. Further, a detailed review of the preceding inspection service is not always needed to confirm the quality of the commodity. This action will allow interested parties to specify which quality factor(s) should be redetermined during the appeal or Board appeal inspection service.

DATES: *Effective Dates:* December 15, 2005.

FOR FURTHER INFORMATION CONTACT: John C. Giler, Deputy Director, Field Management Division: e-mail address *john.c.giler&usda.gov,* telephone: (202) 720–1748.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This action has been determined to be not significant for purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB). This action simplifies the regulations concerning official requirements for commodity inspections. This action reduces cost to the affected entities.

Regulatory Flexibility Act Certification

GIPSA has considered the economic impact of this rule on small entities and has determined that its provision would not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*).

The action will affect entities engaged in shipping graded commodities to and from points within the United States and exporting graded commodities from the United States. GIPSA estimates there are approximately 2,500 rice mills, and bean, pea, and lentil processing plants in the United States that could receive official inspection services by GIPSA, designated/delegated states, and cooperators. Inspections of graded commodities are performed by eight GIPSA offices, one Federal/State office, and six designated States which operate under cooperative agreements and under GIPSA supervision. Under the provisions of the AMA, it is not mandatory for graded commodities to be officially inspected. Further, most users of the official inspection services and those entities that perform these services do not meet the requirements of small entities. Even though some users could be considered small entities, this action relieves regulatory requirements and improves the efficiency of official inspection services. No additional cost is expected to result from this action.

Requiring all appeal inspections and Board appeal inspections for grade to include a complete review of all official factors is not needed by applicants or other parties to transactions, or by official inspection personnel. Furthermore, this requirement often reduces the efficiency of providing official inspection services and increases the costs.

This rule relieves regulatory requirements and improves the efficiency of official inspection services. Further the regulations are applied equally to all entities.

Executive Order 12988

Under Executive Order 12988, Civil Justice Reform, this action is not intended to have a retroactive effect. This action will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this notice.

Information Collection and Recordkeeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB No. 0580–0013.

GIPSA is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Background

On July 7, 2005, GIPSA proposed in the **Federal Register** (70 FR 39199) to revise the regulations under the AMA to allow interested persons to specify the quality factor(s) that would be redetermined during an appeal inspection or a Board appeal inspection for grade. This proposal required comments to be received on or before September 6, 2005. GIPSA had proposed this action because requiring that all quality factors be completely reexamined during an appeal or a Board appeal inspection is not efficient, is time consuming, and can be costly. Further, a detailed review of the preceding inspection service is not always needed to confirm the quality of the commodity. GIPSA proposed that applicants for service be allowed to specify the factor(s) that are to be redetermined as part of an appeal or Board appeal inspection service for grade because it provides a more effective and more efficient inspection service and better meets the industry's needs. However, appeal and board appeal inspections for grade may include a review of any pertinent

factor(s), as deemed necessary by official personnel. This would ensure issuance of an accurate grade.

Comment Review

GIPSA received no comments during the comment period.

Final Action

Accordingly, GIPSA is revising 7 CFR 868.1 to redefine the definitions of appeal and Board appeal inspection services, and revising the regulatory text in 7 CFR 868.60 to revise the conditions for requesting appeal and Board appeal inspection services.

List of Subjects in 7 CFR Part 868

Administrative practice and procedure, Agricultural commodities.

■ For reasons set out in the preamble, 7 CFR part 868 is proposed to be amended as follows:

PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

■ 1. The authority citation for part 868 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621, *et seq.*)

■ 2. Section 868.1, paragraphs (b)(3), and (b)(6) are revised to read as follows:

§ 868.1 Meaning of terms.

* * * * *

(b) * * *

(3) *Appeal inspection service.* A review by the Service of the result(s) of an original inspection or retest inspection service.

* * * * *

(6) *Board appeal inspection service.* A review by the Board of Appeals and Review of the result(s) of an original inspection or appeal inspection service on graded commodities.

* * * * *

■ 3. Section 868.60, paragraph (b) and the OMB citation at the end of the section are revised to read as follows:

§ 868.60 Who may request appeal inspection service.

* * * * *

(b) *Kind and scope of request.* When the results for more than one kind of service are reported on a certificate, an appeal inspection or Board appeal inspection service, as applicable, may be requested on any or all kinds of services reported on the certificate. The scope of an appeal inspection service will be limited to the scope of the original inspection or, in the case of a Board appeal inspection service, the original or appeal inspection service. A request for appeal inspection of a retest inspection will be based upon the scope of the original inspection. If the request specifies a different scope, the request shall be dismissed. Provided, however, that an applicant for service may request an appeal or Board appeal inspection of specific factor(s) or official grade and factors. In addition, appeal and Board appeal inspection for grade may include a review of any pertinent factor(s), as deemed necessary by official personnel.

(Approved by the Office of Management and Budget under control number 0580–0013).

James E. Link,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 05–22586 Filed 11–14–05; 8:45 am]

BILLING CODE 3410–EN–M

DEPARTMENT OF ENERGY

10 CFR Parts 600 and 603

RIN 1991–AB72

Assistance Regulations

AGENCY: Department of Energy.

ACTION: Interim final rule.

SUMMARY: The Department of Energy (DOE) is adding a new part to the DOE assistance regulations to establish policies and procedures to implement the ''other transaction authority'' granted to the Secretary of Energy by section 1007 of the Energy Policy Act of 2005. DOE has decided to implement other transaction authority through the award and administration of technology investment agreements (TIAs). TIAs are a new class of assistance instrument for DOE, but they have been used by the Department of Defense (DoD) for many years to support or stimulate defense research projects involving for-profit firms, especially commercial firms that do business primarily in the commercial marketplace. The new part 603 is similar to the DoD regulation; both provide contracting officers greater flexibility to negotiate award provisions in areas that can present barriers to those commercial firms (e.g., intellectual property, audits, and cost principles). DOE also is revising 10 CFR part 600, subpart A, to conform it with the new part.

DATES: *Effective Date:* This interim final rule is effective on March 15, 2006. *Comment Date:* Written comments must be received by December 15, 2005.

ADDRESSES: You may submit comments, identified by RIN Number 1991–AB72, by any of the following methods:

1. E-mail to *trudy.wood@hq.doe.gov*. Include RIN 1991–AB72 and ''TIA'' in the subject line of the e-mail. Please include the full body of your comments in the text of the message or as an attachment.

2. Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.

3. Mail: Address the comments to Trudy Wood, U.S. Department of Energy, Office of Procurement and Assistance Policy (ME–61), 1000 Independence Avenue, SW., Washington, DC 20585. Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, we encourage respondents to submit comments electronically to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Ms. Trudy Wood, Office of Procurement and Assistance Policy, Department of Energy, at 202–827–1336.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of Rule Provisions
III. Discussion on Conforming Changes to 10 CFR Part 600
IV. Procedural Requirements
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under the Treasury and General Government Appropriations Act, 2001
J. Review Under Executive Order 13211
K. Review Under the Small Business Regulatory Enforcement Fairness Act
V. Approval of the Office of the Secretary of Energy

I. Background

Section 1007 of the Energy Policy Act of 2005 (Pub. L. 109–58) amends section 646 of the Department of Energy (DOE) Organization Act by adding a subsection (g) which authorizes the Secretary of Energy to enter into transactions (other than contracts, cooperative agreements, and grants) subject to the same terms and conditions as the Secretary of Defense under section 2371 of title 10, United States Code. Pursuant to 10 U.S.C. 2371, the Department of Defense (DoD) has developed types of cooperative agreements and other transactions to support research with potential for both commercial and defense applications. In 1997, DoD issued interim guidance that merged various cooperative agreements and other transactions that were similar to

each other into a single class of assistance instruments called technology investment agreements (TIAs). DoD published a regulation in 2003 (68 FR 47150, August 7, 2003) establishing policies and procedures for the award and administration of TIAs.

Today DOE is publishing interim final regulations as a new part 603 to the DOE assistance regulations to establish policies and procedures to implement the Department's ''other transaction authority.'' These regulations were developed on an expedited basis in order to comply with the statutory requirement to issue guidance within 90 days of enactment of the Energy Policy Act of 2005. DOE will continue to review and evaluate transactions authorized and carried out by other Federal agencies under similar authority. This evaluation, which will be considered in formulating the final rule as well as internal guidance, includes an assessment of training and experience requirements for contracting officers, the use of independent audits, cost sharing, tracking of transactions, and knowledge management. The Department is seeking public comment on these interim final regulations in accordance with subsection 646(g)(6)(B) of the DOE Organization Act. Consistent with subsection 646(g)(6)(C) of the same Act, DOE will not carry out any transactions under section 646 until DOE considers comments received in response to this notice and makes the guidelines final.

DOE used the DoD TIA regulation as the basis for developing the new part 603, but tailored the regulation to fit DOE requirements and procedures. Today's rule permits DOE to enter into a TIA, a special type of assistance instrument, with a for-profit firm or a consortium that includes a for-profit firm after a determination is made that a contract, grant, or cooperative agreement is not feasible or appropriate. A TIA can be either a type of cooperative agreement with more flexible provisions tailored to accommodate the financial management, property management, and purchasing systems of commercial firms, but with standard intellectual property provisions, or a transaction ''other than'' a grant or cooperative agreement if the intellectual property requirements vary from the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.) and the DOE patent statutes (42 U.S.C. 5908 and 42 U.S.C 2182). The two types of TIAs have similar requirements except for the intellectual property requirements.

DOE is also amending the existing 10 CFR part 600, subpart A, which establishes general requirements for financial assistance awards. The revision extends the application of subpart A to TIAs.

II. Discussion of Rule Provisions

Part 603 is similar to the DoD Grant and Agreements Regulations, 32 CFR part 37, Technology Investment Agreements. Like the DoD regulation, the new part 603 provides guidance to DOE contracting officers who award or administer TIAs, rather than to the TIA recipient. However, potential TIA recipients may have an interest in part 603 because it tells the contracting officer how to craft award terms and conditions that legally bind the recipient. The following paragraphs describe the subparts of part 603 and highlight some of the major requirements.

Subpart A contains general information about TIAs. It explains the purpose, form and uses of a TIA and identifies other DOE assistance regulations that apply to the award and administration of a TIA.

Subpart B describes when the contracting officer may use a TIA.

Section 603.210 limits the use of a TIA to instances when a for-profit firm is the recipient, a member of a consortium, or is involved in the commercial application of the results of the project. The section states that a TIA is particularly useful for an award to a consortium because such collaborations build new relationships among performers in the technology base, which can improve the overall quality of the research, development, and demonstration (RD&D), and provide a self-governance mechanism. The more flexible terms and conditions of a TIA often make it easier to accommodate the needs of commercial firms that do not traditionally do business with the government.

Section 603.215 states that recipients are to provide, to the maximum extent practicable, at least half of the costs of the RD&D project. The purpose of cost sharing is to ensure that recipients have a vested interest in the project's success.

Section 603.230 states that contracting officers may not use a TIA if a recipient is to receive fee or profit. The basis for the policy is that fee or profit, while appropriate for a procurement contract used in a buyer-seller relationship, is not appropriate for an assistance instrument used to accomplish a public purpose of support or stimulation in a project of mutual interest to the recipient and the Government.

Subpart C addresses expenditure-based and fixed-support TIAs. An expenditure-based TIA is somewhat analogous to a cost-type procurement contract or grant. A fixed-support TIA is somewhat analogous to a fixed-price procurement contract. Section 603.315 describes the advantages of a fixed-support TIA, which include reducing or eliminating post-award requirements that may be a disincentive for a commercial firm to participate in the RD&D.

Subpart D states the policy to use competitive procedures to award TIAs. It also discusses the format and content of the program announcement or announcement.

Subpart E addresses contracting officer's responsibilities, prior to awarding TIAs, for determining that potential recipients are qualified and evaluating business aspects of the proposed transaction. The contracting officer must analyze funding, cost sharing and the ability of the recipient to successfully complete the project. In addition, if the recipient is a consortium that is not formally incorporated, the contracting officer must examine the collaboration agreement to ensure that the management plan is sound and that there is an effective working relationship among the members.

Subparts F and G specify administrative requirements for TIAs. Subpart F addresses organization-wide system requirements for financial management, property management, and purchasing. To reduce administrative burden, the general policy is to have each type of organization that participates in a TIA continue to use its present administrative systems. Subpart G addresses award-specific administrative requirements, such as payment methods, revision of budget and program plans, intellectual property, reporting, and termination and enforcement.

Overall, subparts F and G give contracting officers considerable latitude to negotiate award provisions in areas that sometimes are sources of concern for commercial firms.

Two portions of subpart F may be of particular interest to potential recipients. Sections 603.640 through 603.675 address audit requirements for expenditure-based TIAs. Under § 603.650, contracting officers may authorize use of Independent Public Accountants (IPAs) for audits of for-profit firms under certain conditions. When IPAs are used, § 603.660 requires the audits to be performed in accordance with the Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accountability Office (GAO). Much of the GAGAS parallel the Generally

Accepted Auditing Standards used by the private sector.

Section 603.680 of subpart F establishes the general policy for capital assets, including equipment that for-profit firms may need to perform the RD&D under TIAs. The policy calls for allowing a firm to charge to an expenditure-based TIA only depreciation or use charges for real property and equipment used on a TIA, except in certain circumstances. The contracting officer may grant an exception and permit a firm to charge the full acquisition cost of a capital asset to the RD&D project. However, if the full acquisition cost of the capital asset is charged to the award, § 603.680 provides that although the recipient takes title to the property, the property is subject to the disposition process in 10 CFR 600.321(f).

A portion of subpart G may be of particular interest to potential recipients. Sections 603.840 through § 603.875 address data and patent rights and provide contracting officers guidelines for negotiating provisions appropriate to a wide variety of circumstances that may arise.

Subpart H details contracting officer's responsibilities at the time of award. The section that may be of most interest to potential TIA recipients is § 603.1010, which lists substantive issues that must be addressed in the award document.

Subpart I addresses internal agency procedures for post-award administration.

Subpart J includes definitions used in this part. The definitions in 10 CFR 600.3 also apply to TIAs.

III. Discussion of Conforming Changes to 10 CFR Part 600

Today's rule makes the following conforming changes to 10 CFR part 600, subpart A.

1. Under the authority paragraph, the rule adds the authority that allows DOE to enter into transactions that are other than contracts, cooperative agreements or grants.

2. In § 600.1, the rule amends the last sentence to make subpart A apply to technology investment agreements as well as grants and cooperative agreements and states that the guidance for technology investment agreements is contained in part 603.

3. In § 600.6(c), the rule amends the paragraph to make the noncompetitive financial assistance requirements applicable to TIAs as well as grants and cooperative agreements.

4. In § 600.8(a), the rule amends the paragraph to make the program announcement requirements applicable to TIAs as well as grants and cooperative agreements.

5. In § 600.16(b), the rule amends the paragraph to make the provision applicable to TIAs as well as grants and cooperative agreements and adds the appropriate cites for awards made under subpart D and part 603.

6. In § 600.17, the rule amends the paragraph to clarify that the Notice of Financial Assistance Award form (DOE F 4600.1) is required only for grants and cooperative agreements awarded under part 600.

7. In § 600.23, the rule corrects the cite for the debarment and suspension procedures. The debarment and suspension procedures also apply to TIAs and are referenced in part 603.

8. In § 600.26(a), the rule amends the paragraph to state that the project period must be specified in the award since the Notice of Financial Assistance Award (DOE Form 4600.1) is not appropriate for TIAs.

IV. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action is not subject to review under that Executive Order by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB).

B. Review Under Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking'' (67 FR 53461, August 16, 2002), DOE published procedures and policies to ensure that the potential impacts of its draft rules on small entities are properly considered during the rulemaking process (68 FR 7990, February 19, 2003), and has made them available on the Office of General Counsel's Web site: *http://www.gc.doe.gov.* DOE has reviewed today's interim final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This regulatory action will not have a significant adverse impact on a substantial number of small entities because under part 603, small entities are subject either to requirements that parallel government-wide requirements that OMB Circular A–110 establishes for other assistance awards, or to less burdensome requirements that enable firms from the commercial marketplace to participate in DOE research, development, and demonstration. On the basis of the foregoing, DOE certifies that the interim final rule does not have a significant economic impact on a substantial number of small entities. DOE did not prepare a regulatory flexibility analysis for this rulemaking.

C. Review Under the Paperwork Reduction Act of 1995

This regulatory action will not impose any additional reporting or recordkeeping requirements subject to approval under the Paperwork Reduction Act. Participant reporting and recordkeeping requirements in part 603 either are parallel to, or less burdensome than, government-wide requirements already established in OMB Circular A–110.

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule establishes guidelines and procedures for application and review, administration, audit and closeout of assistance instruments, and, therefore, is covered under the Categorical Exclusion in paragraph A6 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of

regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations (65 FR 13735). DOE has examined today's proposed rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Act of 1995

This regulatory action does not contain a Federal mandate that will result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector of $100 million or more in any one year.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. Today's rule will not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001, 44 U.S.C. 3516 note, provides for agencies to review most disseminations of information to the public under implementing guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed today's interim final rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

J. Review Under Executive Order 13211

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

K. Review Under the Small Business Regulatory Enforcement Fairness Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of today's rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 801(2).

V. Approval of the Office of the Secretary of Energy

The Office of the Secretary has approved the issuance of this rule.

List of Subjects

10 CFR Part 600

Administrative practice and procedure, Assistance programs.

10 CFR Part 603

Accounting, administrative practice and procedure, Financial assistance programs, Grant programs, Reporting and recordkeeping requirements, Technology investments.

Issued in Washington, DC on November 7, 2005.

Richard H. Hopf,

Director, Office of Procurement and Assistance Management, Office of Management, Department of Energy.

Robert C. Braden,

Director, Office of Acquisition and Supply Management, National Nuclear Security Administration.

■ For the reasons stated in the preamble, part 600 of chapter II, title 10 of the Code of Federal Regulations, is amended as follows:

PART 600—FINANCIAL ASSISTANCE RULES

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 42 U.S.C. 7101 *et seq.*; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

§ 600.1 [Amended]

■ 2. Section 600.1, the last sentence is revised to read as follows:

§ 600.1 Purpose.

* * * This subpart (Subpart A) sets forth the general policies and procedures applicable to the award and administration of grants, cooperative agreements, and technology investment agreements. The specific guidance for technology investment agreements is contained in part 603.

§ 600.6 [Amended]

■ 3. In § 600.6(c), the first sentence is amended by removing ''grant or cooperative agreement'' and adding ''grant, cooperative agreement, or

technology investment agreement'' in lieu thereof.

§ 600.8 [Amended]

■ 4. In § 600.8(a), the first sentence is amended by removing ''grant or cooperative agreement'' and adding ''grant, cooperative agreement, or technology investment agreement'' in lieu thereof.

§ 600.16 [Amended]

■ 5. Section 600.16(b) is amended as follows:

■ a. The first sentence is amended by removing ''grant or cooperative agreement'' and adding ''grant, cooperative agreement, or technology investment agreement'' in lieu thereof.

■ b. The first sentence is amended by removing ''§§ 600.125(e) or 600.230 of this part'' and adding ''§§ 600.125(e), 600.230, 600.317(b), or 603.830'' in lieu thereof.

§ 601.17 [Amended]

■ 6. Section 600.17 is amended by removing ''Each financial assistance award'' and adding ''Each grant and cooperative agreement awarded under this part'' in lieu thereof.

§ 601.23 [Amended]

■ 7. Section 600.23 is amended by removing ''10 CFR part 1036'' and adding ''10 CFR part 606'' in lieu thereof.

§ 600.26 [Amended]

■ 8. Section 600.26(a) is amended by removing ''on the Notice of Financial Assistance Award (DOE Form 4600.1)'' and adding ''in the award document'' in lieu thereof.

■ 9. Part 603 is added to read as follows:

PART 603—TECHNOLOGY INVESTMENT AGREEMENTS

Subpart A—General

Sec.

603.100 Purpose.
603.105 Description.
603.110 Use of TIAs.
603.115 Approval requirements.
603.120 Contracting officer warrant requirements.
603.125 Applicability of other parts of the DOE Assistance Regulations.

Subpart B—Appropriate Use of Technology Investment Agreements

603.200 Contracting officer responsibilities.
603.205 Nature of the project.
603.210 Recipients.
603.215 Recipient's commitment and cost sharing.
603.220 Government participation.
603.225 Benefits of using a TIA.
603.230 Fee or profit.

Subpart C—Requirements for Expenditure-Based and Fixed-Support Technology Investment Agreements

603.300 Difference between an expenditure-based and a fixed-support TIA.
603.305 Use of a fixed-support TIA.
603.310 Use of an expenditure-based TIA.
603.315 Advantages of a fixed-support TIA.

Subpart D—Competition Phase

603.400 Competitive procedures.
603.405 Announcement format.
603.410 Announcement content.
603.415 Cost sharing.
603.420 Disclosure of information.

Subpart E—Pre-Award Business Evaluation

603.500 Pre-award business evaluation.
603.505 Program resources.

Recipient Qualification

603.510 Recipient qualifications.
603.515 Qualification of a consortium.

Total Funding

603.520 Reasonableness of total project funding.

Cost Sharing

603.525 Value and reasonableness of the recipient's cost sharing contribution.
603.530 Acceptable cost sharing.
603.535 Value of proposed real property or equipment.
603.540 Acceptability of fully depreciated real property or equipment.
603.545 Acceptability of costs of prior RD&D.
603.550 Acceptability of intellectual property.
603.555 Value of other contributions.

Fixed-Support or Expenditure-Based Approach

603.560 Estimate of project expenditures.
603.565 Use of a hybrid instrument.

Accounting, Payments, and Recovery of Funds

603.570 Determining milestone payment amounts.
603.575 Repayment of Federal cost share.

Subpart F—Award Terms Affecting Participants' Financial, Property, and Purchasing Systems

603.600 Administrative matters.
603.605 General policy.
603.610 Flow down requirements.

Financial Matters

603.615 Financial management standards for for-profit firms.
603.620 Financial management standards for nonprofit participants.
603.625 Cost principles or standards applicable to for-profit participants.
603.630 Use of Federally-approved indirect cost rates for for-profit firms.
603.635 Cost principles for nonprofit participants.
603.640 Audits of for-profit participants.
603.645 Periodic audits and award-specific audits of for-profit participants.
603.650 Designation of auditor for for-profit participants.
603.655 Frequency of periodic audits of for-profit participants.
603.660 Other audit requirements.
603.665 Periodic audits of nonprofit participants.
603.670 Flow down audit requirements to subrecipients.
603.675 Reporting use of IPA for subawards.

Property

603.680 Purchase of real property and equipment by for-profit firms.
603.685 Management of real property and equipment by nonprofit participants.
603.690 Requirements for Federally-owned property.
603.695 Requirements for supplies.

Purchasing

603.700 Standards for purchasing systems of for-profit firms.
603.705 Standards for purchasing systems of nonprofit organizations.

Subpart G—Award Terms Related to Other Administrative Matters

603.800 Scope.

Payments

603.805 Payment methods.
603.810 Method and frequency of payment requests.
603.815 Withholding payments.
603.820 Interest on advance payments.

Revision of Budget and Program Plans

603.825 Government approval of changes in plans.
603.830 Pre-award costs.

Program Income

603.835 Program income requirements.

Intellectual Property

603.840 Negotiating data and patent rights.
603.845 Data rights requirements.
603.850 Marking of data.
603.855 Protected data.
603.860 Rights to inventions.
603.865 March-in rights.
603.870 Marking of documents related to inventions.
603.875 Foreign access to technology and U.S. Competitiveness provisions.

Financial and Programmatic Reporting

603.880 Reporting requirements.
603.885 Updated program plans and budgets.
603.890 Final performance report.
603.895 Protection of information in programmatic reports.
603.900 Receipt of final performance report.

Records Retention and Access Requirements

603.905 Record retention requirements.
603.910 Access to a for-profit participant's records.
603.915 Access to a nonprofit participant's records.

Termination and Enforcement

603.920 Termination and enforcement requirements.

Subpart H—Executing the Award

603.1000 Contracting officer's responsibilities at time of award.

The Award Document

603.1005 General responsibilities.
603.1010 Substantive issues.
603.1015 Execution.

Reporting Information About the Award

603.1020 File documents.

Subpart I—Post-Award Administration

603.1100 Contracting officer's post-award responsibilities.
603.1105 Advance payments or payable milestones.
603.1110 Other payment responsibilities.
603.1115 Single audits.
603.1120 Award-specific audits.

Subpart J—Definitions of Terms Used in this Part

603.1205 Advance.
603.1210 Articles of collaboration.
603.1215 Assistance.
603.1220 Award-specific audit.
603.1225 Cash contributions.
603.1230 Commercial firm.
603.1235 Consortium.
603.1240 Cooperative agreement.
603.1245 Cost sharing.
603.1250 Data.
603.1255 Equipment.
603.1260 Expenditure-based award.
603.1265 Expenditures or outlays.
603.1270 Grant.
603.1275 In-kind contributions.
603.1280 Institution of higher education.
603.1285 Intellectual property.
603.1290 Participant.
603.1295 Periodic audit.
603.1300 Procurement contract.
603.1305 Program income.
603.1310 Program official.
603.1315 Property.
603.1320 Real property.
603.1325 Recipient.
603.1330 Supplies.
603.1335 Termination.
603.1340 Technology investment agreement.

Appendix A to Part 603—Applicable Federal Statutes, Executive Orders, and Government-wide Regulations
Appendix B to Part 603—Flow Down Requirements for Purchases of Goods and Services

Authority: 42 U.S.C. 7101 et seq.; 31 U.S.C. 6301–6308; 50 U.S.C. 2401 et seq., unless otherwise noted.

Subpart A—General

§ 603.100 Purpose.

This part establishes uniform policies and procedures for the implementation of DOE's ''other transaction'' authority and for award and administration of a technology investment agreement (TIA).

§ 603.105 Description.

(a) A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the Department of Energy's (DOE) research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

(1) A type of cooperative agreement with more flexible provisions tailored for commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10 CFR 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (i.e., Bayh-Dole statute and 42 U.S.C. 2182 and 5908, as implemented in 10 CFR 600.325). The authority to award this type of TIA is 42 U.S.C. 7256(a), as well as any program-specific statute that provides authority to award cooperative agreements; or

(2) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. 2182 and 5908, which require the Government to retain certain intellectual property rights and require differing treatment between large businesses and nonprofit organizations or small businesses. The authority to award this type of TIA is 42 U.S.C. 7256(g), as well as any program-specific statute that provides authority to award assistance agreements.

(b) The two types of TIAs have similar requirements, except for the intellectual property requirements. If the contracting officer determines there is a unique, exceptional need to vary from the standard intellectual property requirements in 10 CFR 600.325, the TIA becomes an assistance transaction other than a cooperative agreement.

§ 603.110 Use of TIAs.

The ultimate goal for using a TIA is to broaden the technology base available to meet DOE mission requirements and foster within the technology base new relationships and practices to advance the national economic and energy security of the United States, to promote scientific and technological innovation in support of that mission, and to ensure the environmental cleanup of the national nuclear weapons complex. A TIA therefore is designed to:

(a) Reduce barriers to participation in RD&D programs by commercial firms that deal primarily in the commercial marketplace. A TIA allows contracting officers to tailor Government requirements and lower or remove barriers if it can be done with proper stewardship of Federal funds.

(b) Promote new relationships among performers in the technology base. Collaborations among commercial firms that deal primarily in the commercial marketplace, firms that regularly perform on the DOE RD&D programs and nonprofit organizations can enhance overall quality and productivity.

(c) Stimulate performers to develop and use new business practices and disseminate best practices throughout the technology base.

§ 603.115 Approval requirements.

An officer of the Department who has been appointed by the President by and with the advice and consent of the Senate and who has been delegated the authority from the Secretary must approve the award of a TIA and may perform other functions of the Secretary as set forth in 42 U.S.C. 7256(g). This authority may not be re-delegated. The DOE or National Nuclear Security Administration (NNSA) Senior Procurement Executive also must concur in the award of a TIA.

§ 603.120 Contracting officer warrant requirements.

A contracting officer may award or administer a TIA only if the contracting officer's warrant authorizes the award or administration of a TIA.

§ 603.125 Applicability of other parts of the DOE Assistance Regulations.

(a) TIAs are explicitly covered in this part and 10 CFR part 600, subpart A—General. 10 CFR part 600, subpart A, addresses general matters that relate to assistance instruments.

(b) Three additional parts of the DOE Assistance Regulations apply to TIAs, although they do not mention a TIA explicitly. They are:

(1) 10 CFR part 601—lobbying restrictions apply by law (31 U.S.C. 1352) to a TIA that is a cooperative agreement and as a matter of DOE policy to a TIA that is an assistance transaction other than a cooperative agreement.

(2) 10 CFR part 606—debarment and suspension requirements apply because they cover nonprocurement instruments in general; and

(3) 10 CFR part 607—drug-free workplace (financial assistance) requirements apply because they cover all assistance instruments.

(c) Other portions of 10 CFR part 600 apply to a TIA as referenced in part 603.

Subpart B—Appropriate Use of Technology Investment Agreements

§ 603.200 Contracting officer responsibilities.

Contracting officers may use a TIA only in appropriate situations. To do so, the use of a TIA must be justified based on:

(a) The nature of the project, as discussed in § 603.205;

(b) The type of recipient, addressed in § 603.210;

(c) The recipient's commitment and cost sharing, as described in § 603.215;

(d) The degree of involvement of the Government program official, as discussed in § 603.220; and

(e) The contracting officer's judgment that the use of a TIA could benefit the RD&D objectives in ways that likely would not happen if another type of instrument were used (i.e., a contract, grant or cooperative agreement is not feasible or appropriate). Answers to the four questions in § 603.225 form the basis for the contracting officer's judgment.

§ 603.205 Nature of the project.

Judgments relating to the nature of the project include:

(a) The principal purpose of the project is to carry out a public purpose of support or stimulation of RD&D (i.e., assistance), rather than acquiring goods or services for the benefit of the Government (i.e., acquisition);

(b) To the maximum extent practicable, the TIA does not support RD&D that duplicates other RD&D being conducted under existing programs carried out by the DOE; and

(c) The use of a standard contract, grant or cooperative agreement for the project is not feasible or appropriate (see questions in § 603.225).

§ 603.210 Recipients.

(a) A TIA requires one or more for-profit firms to be involved either in the:

(1) Performance of the RD&D project; or

(2) The commercial application of the results.

(i) In those cases where there is only a non-profit performer or a consortium of non-profit performers or non-profit performs and FFRDC contractors, if and as authorized, the performers must have at least a tentative agreement with a specific for-profit partner or partners who plan on being involved in the commercial application of the results.

(ii) In consultation with legal counsel, the contracting officer should review the agreement between the performers and their for-profit partner to ensure that the for-profit partner is committed to being involved in the commercial application of the results.

(b) A TIA may be particularly useful for awards to consortia (a consortium may include one or more for-profit firms, as well as State or local government agencies, institutions of higher education, other nonprofit organizations, or FFRDC contractors, if and as authorized) because:

(1) If multiple performers are participating as a consortium, they may be more equal partners in the performance of the project than usually is the case with a prime recipient and subawards. All of performers are more likely to be directly involved in developing and revising plans for the RD&D effort, reviewing technical progress, and overseeing financial and other business matters. That feature makes consortia well suited to building new relationships among performers in the technology base, a principal objective for the use of a TIA.

(2) In addition, interactions among the participants within a consortium potentially provide a self-governance mechanism. The potential for additional self-governance is particularly good when a consortium includes multiple for-profit participants that normally are competitors within an industry.

(c) A TIA may be used for carrying out RD&D performed by single firms or multiple performers (e.g., a teaming arrangement) in prime award-subaward relationships. In awarding a TIA in those cases, however, consideration should be given to providing for greater involvement of the program official or a way to increase self-governance (e.g., a prime award with multiple subawards arranged so as to give the subrecipients more insight into and authority and responsibility for the programmatic and business aspects of the overall project than they usually have).

§ 603.215 Recipient's commitment and cost sharing.

(a) The contracting officer should evaluate whether the recipient has a strong commitment to and self-interest in the success of the project and incorporating the technology into products and processes for the commercial marketplace. Evidence of that commitment and interest should be found in the proposal, in the recipient's management plan, or through other means.

(b) The contracting officer must seek cost sharing. The purpose of cost share is to ensure that the recipient incurs real risk that gives it a vested interest in the project's success; the willingness to commit to meaningful cost sharing is a good indicator of a recipient's self-interest. The requirements are that:

(1) To the maximum extent practicable, the non-Federal parties carrying out a RD&D project under a TIA are to provide at least half of the costs of the project; and

(2) The parties must provide the cost sharing from non-Federal resources unless otherwise provided by law.

(c) The contracting officer may consider whether cost sharing is impracticable in a given case, unless there is a statutory requirement for cost sharing that applies to the particular program under which the award is to be made. Before deciding that cost sharing is impracticable, the contracting officer should carefully consider if there are other factors that demonstrate the recipient's self-interest in the success of the current project.

§ 603.220 Government participation.

A TIA is used to carry out cooperative relationships between the Federal Government and the recipient(s) which require substantial involvement of the Government in the execution of the RD&D. For example, program officials will participate in recipients' periodic reviews of progress and may be substantially involved with the recipients in the resulting revisions of plans for future effort.

§ 603.225 Benefits of using a TIA.

Before deciding that a TIA is appropriate, the contracting officer also must judge that using a TIA could benefit the RD&D objectives in ways that likely would not happen if another type of assistance instrument were used (e.g., a cooperative agreement subject to all of the requirements of 10 CFR part 600). The contracting officer, in conjunction with Government program officials, must consider the questions in paragraphs (a) through (d) of this section, to help identify the benefits that may justify using a TIA and reducing some of the usual requirements. The contracting officer must report the answers to these questions to help the DOE measure the benefits of using a TIA. Note full concise answers are required only to questions that relate to the benefits perceived for using the TIA, rather than another type of funding instrument, for the particular project. A simple ''no'' or ''not applicable'' is a sufficient response for other questions. The questions are:

(a) Will the use of a TIA permit the involvement of any commercial firms or business units of firms that would not otherwise participate in the project? If so:

(1) What are the expected benefits of those firms' or divisions' participation (e.g., is there a specific technology that could be better, more readily available, or less expensive)?

(2) Why would they not participate if an instrument other than a TIA were used? The contracting officer should identify specific provisions of the TIA or features of the TIA award process that enable their participation. For example, if the RD&D effort is based substantially on a for-profit firm's privately developed technology and the Government may be a major user of any commercial product developed as a result of the award, a for-profit firm may not participate unless the Government's intellectual property rights in the technology are modified.

(b) Will the use of a TIA allow the creation of new relationships among participants in a consortium, at the prime or subtier levels, among business units of the same firm, or between non-Federal participants and the Federal Government that will foster better technology? If so:

(1) Why do these new relationships have the potential for fostering technology that is better, more affordable, or more readily available?

(2) Are there provisions of the TIA or features of the TIA award process that enable these relationships to form? If so, the contracting officer should be able to identify specifically what they are. If not, the contracting officer should be able to explain specifically why the relationships could not be created if another type of assistance instrument were used. For example, a large business firm may not be willing to participate in a consortium or teaming arrangement with small business firms and nonprofit firms under a standard cooperative agreement because those entities have invention rights under the Bayh-Dole statute that are not available to large businesses. A large business firm may be willing to participate in a consortium or teaming arrangement only if all partners are substantially equal with regard to the allocation of intellectual property rights.

(c) Will the use of a TIA allow firms or business units of firms that traditionally accept Government awards to use new business practices in the execution of the RD&D project that will foster better technology, new technology more quickly or less expensively, or facilitate partnering with commercial firms? If so:

(1) What specific benefits result from the use of these new practices? The contracting officer should be able to explain specifically the potential for those benefits.

(2) Are there provisions of the TIA or features of the TIA award process that enable the use of the new practices? If so, the contracting officer should be able to identify those provisions or features and explain why the practices could not be used if the award were made using another type of assistance instrument.

(d) Are there any other benefits of the use of a TIA that could help DOE meet its objectives in carrying out the project? If so, the contracting officer should be able to identify specifically what they are, how they can help meet the objectives, what features of the TIA or award process enable DOE to realize them, and why the benefits likely would not be realized if an assistance instrument other than a TIA were used.

§ 603.230 Fee or profit.

The contracting officer may not use a TIA if any participant is to receive fee or profit. Note that this policy extends to all performers of the project, including any subawards for substantive program performance, but it does not preclude participants' or subrecipients' payment of reasonable fee or profit when making purchases from suppliers of goods (e.g., supplies and equipment) or services needed to carry out the RD&D.

Subpart C—Requirements for Expenditure-Based and Fixed-Support Technology Investment Agreements

§ 603.300 Difference between an expenditure-based and a fixed-support TIA.

The contracting officer may negotiate expenditure-based or fixed-support award terms for either types of TIA subject to the requirements in this subpart. The fundamental difference between an expenditure-based and a fixed-support TIA is:

(a) For an expenditure-based TIA, the amounts of interim payments or the total amount ultimately paid to the recipient are based on the amounts the recipient expends on project costs. If a recipient completes the project specified at the time of award before it expends all of the agreed-upon Federal funding and recipient cost sharing, the Federal Government may recover its share of the unexpended balance of funds or, by mutual agreement with the recipient, amend the agreement to expand the scope of the RD&D project. An expenditure-based TIA, therefore, is analogous to a cost-type procurement contract or grant.

(b) For a fixed-support TIA, the amount of assistance is established at the time of award and is not meant to be adjusted later. In that sense, a fixed-support TIA is somewhat analogous to a fixed-price procurement contract.

§ 603.305 Use a fixed-support TIA.

The contracting officer may use a fixed-support TIA if:

(a) The agreement is to support or stimulate RD&D with outcomes that are well defined, observable, and verifiable;

(b) The resources required to achieve the outcomes can be estimated well enough to ensure the desired level of cost sharing (see example in § 603.560(b)); and

(c) The agreement does not require a specific amount or percentage of recipient cost sharing. In cases where the agreement does require a specific amount or percentage of cost sharing, a fixed-support TIA is not practicable because the agreement has to specify cost principles or standards for costs that may be charged to the project; require the recipient to track the costs of the project; and provide access for audit to allow verification of the recipient's compliance with the mandatory cost sharing. A fixed-support TIA may not be used if there is:

(1) A requirement (e.g., in statute or policy determination) for a specific amount or percentage of recipient cost sharing; or

(2) The contracting officer, in consultation with the program official, otherwise elects to include in the TIA a requirement for a specific amount or percentage of cost sharing.

§ 603.310 Use of an expenditure-based TIA.

In general, the contracting officer must use an expenditure-based TIA under conditions other than those described in § 603.305. Reasons for any exceptions to this general rule must be documented in the award file and must be consistent with the policy in § 603.230 that precludes payment of fee or profit to participants.

§ 603.315 Advantages of a fixed-support TIA.

In situations where the use of a fixed-support TIA is permissible (see §§ 603.305 and 603.310), its use may encourage some commercial firms' participation in the RD&D. With a fixed-support TIA, the contracting officer can eliminate or reduce some post-award requirements that sometimes are cited as disincentives for those firms to participate. For example, a fixed-support TIA need not:

(a) Specify minimum standards for the recipient's financial management system;

(b) Specify cost principles or standards stating the types of costs the recipient may charge to the project;

(c) Provide for financial audits by Federal auditors or independent public accountants of the recipient's books and records;

(d) Set minimum standards for the recipient's purchasing system; or

(e) Require the recipient to prepare financial reports for submission to the Federal Government.

Subpart D—Competition Phase

§ 603.400 Competitive procedures.

DOE policy is to award a TIA using competitive procedures and a merit-based selection process, as described in 10 CFR 600.6 and 600.13, respectively:

(a) In every case where required by statute; and

(b) To the maximum extent feasible, in all other cases. If it is not feasible to use competitive procedures, the contracting officer must comply with the requirements in 10 CFR 600.6(c).

§ 603.405 Announcement format.

The announcement must use the government-wide standard format for program announcements of funding opportunities (see 10 CFR 600.8). If the contracting officer, in consultation with the program official, decides that a TIA is among the types of instruments that may be awarded under an announcement, the additional elements described in §§ 603.410 through 603.420 should be included in the announcement.

§ 603.410 Announcement content.

Once the contracting officer, in consultation with the program official, considers the factors described in Subpart B of this part and decides that a TIA is among the types of instruments that may be awarded pursuant to a program announcement, it is important to state that fact in the announcement. The announcement also should state that a TIA is more flexible than a traditional financial assistance agreement and that requirements are negotiable in areas such as audits and intellectual property rights that may cause concern for commercial firms. Doing so should increase the likelihood that commercial firms will be willing to submit proposals.

§ 603.415 Cost sharing.

To help ensure a competitive process that is fair and equitable to all potential proposers, the announcement should state clearly:

(a) That, to the maximum extent practicable, the non-Federal parties carrying out a RD&D project under a TIA are to provide at least half of the costs of the project (see § 603.215(b));

(b) The types of cost sharing that are acceptable;

(c) How any in-kind contributions will be valued, in accordance with §§ 603.530 through 603.555; and

(d) Whether any consideration will be given to alternative approaches a proposer may offer to demonstrate its strong commitment to and self-interest in the project's success, in accordance with § 603.215.

§ 603.420 Disclosure of information.

The announcement should tell potential proposers that:

(a) For all TIAs, information described in paragraph (b) of this section is exempt from disclosure requirements of the Freedom of Information Act (FOIA)(codified at 5 U.S.C. 552) for a period of five years after the date on which the DOE receives the information from them; and

(b) As provided in 42 U.S.C. 7256(g) incorporating certain provisions of 10 U.S.C. 2371, disclosure is not required, and may not be compelled, under FOIA during that period if:

(1) A proposer submits the information in a competitive or noncompetitive process that could result in the award of a TIA; and

(2) The type of information is among the following types that are exempt:

(i) Proposals, proposal abstracts, and supporting documents; and

(ii) Business plans and technical information submitted on a confidential basis.

(c) If proposers desire to protect business plans and technical information for five years from FOIA disclosure requirements, they must mark them with a legend identifying them as documents submitted on a confidential basis. After the five-year period, information may be protected for longer periods if it meets any of the criteria in 5 U.S.C. 552(b) (as implemented by the DOE in 10 CFR part 1004) for exemption from FOIA disclosure requirements.

Subpart E—Pre-Award Business Evaluation

§ 603.500 Pre-award business evaluation.

(a) The contracting officer must determine the qualification of the recipient, as described in §§ 603.510 and 603.515.

(b) As the business expert working with the program official, the contracting officer also must address the financial aspects of the proposed agreement. The contracting officer must:

(1) Determine that the total amount of funding for the proposed effort is reasonable, as addressed in § 603.520.

(2) Assess the value and determine the reasonableness of the recipient's proposed cost sharing contribution, as discussed in §§ 603.525 through 603.555.

(3) If contemplating the use of a fixed-support rather than expenditure-based TIA, ensure that its use is justified, as explained in §§ 603.560 and 603.565.

(4) Determine amounts for milestone payments, if used, as discussed in § 603.570.

§ 603.505 Program resources.

Program officials can be a source of information for determining the reasonableness of proposed funding (e.g., on labor rates, as discussed in § 603.520) or establishing observable and verifiable technical milestones for payments (see § 603.570).

Recipient Qualification

§ 603.510 Recipient qualifications.

Prior to award of a TIA, the contracting officer's responsibilities for determining that the recipient is qualified are the same as those for awarding a grant or cooperative agreement. If the recipient is a consortium that is not formally incorporated, the contracting officer has the additional responsibility described in § 603.515.

§ 603.515 Qualification of a consortium.

(a) When the prospective recipient of a TIA is a consortium that is not formally incorporated, the contracting officer must also, in consultation with legal counsel, review the management plan in the consortium's collaboration agreement to ensure that the management plan is sound and that it adequately addresses the elements necessary for an effective working relationship among the consortium members. An effective working relationship is essential to increase the project's chances of success.

(b) The collaboration agreement, commonly referred to as the articles of collaboration, is the document that sets out the rights and responsibilities of each consortium member. It binds the individual consortium members together. The document should discuss, among other things, the consortium's

(1) Management structure;

(2) Method of making payments to consortium members;

(3) Means of ensuring and overseeing members' efforts on the project;

(4) Provisions for members' cost sharing contributions; and

(5) Provisions for ownership and rights in intellectual property developed previously or under the agreement.

Total Funding

§ 603.520 Reasonableness of total project funding.

In cooperation with the program official, the contracting officer must assess the reasonableness of the total estimated budget to perform the RD&D that will be supported by the agreement.

(a) *Labor.* Much of the budget likely will involve direct labor and associated indirect costs, which may be represented together as a ''loaded'' labor rate. The program official is an essential advisor on reasonableness of the overall level of effort and its composition by labor category. The contracting officer also may rely on experience with other awards as the basis for determining reasonableness.

(b) *Real property and equipment.* In almost all cases, the project costs should normally include only depreciation or use charges for real property and equipment of for-profit participants, in accordance with § 603.680. Remember that the budget for an expenditure-based TIA may not include depreciation of a participant's property as a direct cost of the project if that participant's practice is to charge the depreciation of that type of property as an indirect cost, as many organizations do.

Cost Sharing

§ 603.525 Value and reasonableness of the recipient's cost sharing contribution.

The contracting officer must:

(a) Determine that the recipient's cost sharing contributions meet the criteria for cost sharing and determine values for them, in accordance with §§ 603.530 through 603.555. In doing so, the contracting officer must:

(1) Ensure that there are affirmative statements from any third parties identified as sources of cash contributions, and

(2) Include in the award file an evaluation that documents how the values of the recipient's contributions to the funding of the project were determined.

(b) Judge that the recipient's cost sharing contribution, as a percentage of the total budget, is reasonable. To the maximum extent practicable, the recipient must provide at least half of the costs of the project, in accordance with § 603.215.

§ 603.530 Acceptable cost sharing.

The contracting officer may accept any cash or in-kind contributions that meet all of the following criteria.

(a) In the contracting officer's judgment, they represent meaningful cost sharing that demonstrates the recipient's commitment to the success of the RD&D project. Cash contributions clearly demonstrate commitment and they are strongly preferred over in-kind contributions.

(b) They are necessary and reasonable for accomplishment of the RD&D project's objectives.

(c) They are costs that may be charged to the project under § 603.625 and § 603.635, as applicable to the participant making the contribution.

(d) They are verifiable from the recipient's records.

(e) They are not included as cost sharing contributions for any other Federal award.

(f) They are not paid by the Federal Government under another award, unless otherwise provided by law.

§ 603.535 Value of proposed real property or equipment.

The contracting officer rarely should accept values for cost sharing contributions of real property or equipment that are in excess of depreciation or reasonable use charges, as discussed in § 603.680 for for-profit participants. The contracting officer may accept the full value of a donated capital asset if the real property or equipment is to be dedicated to the project and the contracting officer expects that it will have a fair market value that is less than $5,000 at the project's end. In those cases, the contracting officer should value the donation at the lesser of:

(a) The value of the property as shown in the recipient's accounting records (i.e., purchase price less accumulated depreciation); and

(b) The current fair market value. The contracting officer may accept the use of any reasonable basis for determining the fair market value of the property. If there is a justification to do so, the contracting officer may accept the current fair market value even if it exceeds the value in the recipient's records.

§ 603.540 Acceptability of fully depreciated real property or equipment.

The contracting officer should limit the value of any contribution of a fully depreciated asset to a reasonable use charge. In determining what is reasonable, the contracting officer must consider:

(a) The original cost of the asset;

(b) Its estimated remaining useful life at the time of the negotiations;

(c) The effect of any increased maintenance charges or decreased performance due to age; and

(d) The amount of depreciation that the participant previously charged to Federal awards.

§ 603.545 Acceptability of costs of prior RD&D.

The contracting officer may not count any participant's costs of prior RD&D as a cost sharing contribution. Only the additional resources that the recipient will provide to carry out the current project (which may include pre-award costs for the current project, as described in § 603.830) are to be counted.

§ 603.550 Acceptability of intellectual property.

(a) In most instances, the contracting officer should not count costs of patents and other intellectual property (*e.g.*, copyrighted material, including software) as cost sharing because:

(1) It is difficult to assign values to these intangible contributions;

(2) Their value usually is a manifestation of prior research costs, which are not allowed as cost share under § 603.545; and

(3) Contributions of intellectual property rights generally do not represent the same cost of lost opportunity to a recipient as contributions of cash or tangible assets. The purpose of cost share is to ensure that the recipient incurs real risk that gives it a vested interest in the project's success.

(b) The contracting officer may include costs associated with intellectual property if the costs are based on sound estimates of market value of the contribution. For example, a for-profit firm may offer the use of commercially available software for which there is an established license fee for use of the product. The costs of the development of the software would not be a reasonable basis for valuing its use.

§ 603.555 Value of other contributions.

For types of participant contributions other than those addressed in §§ 603.535 through 603.550, the general rule is that the contracting officer is to value each contribution consistently with the cost principles or standards in § 603.625 and § 603.635 that apply to the participant making the contribution. When valuing services and property donated by parties other than the participants, the contracting officer may use as guidance the provisions of 10 CFR 600.313(b)(2) through (b)(5).

Fixed-Support or Expenditure-Based Approach

§ 603.560 Estimate of project expenditures.

(a) To use a fixed-support TIA, rather than an expenditure-based TIA, the contracting officer must have confidence in the estimate of the

expenditures required to achieve well-defined outcomes. Therefore, the contracting officer must work carefully with program officials to select outcomes that, when the recipient achieves them, are reliable indicators of the amount of effort the recipient expended. However, the estimate of the required expenditures need not be a precise dollar amount, as illustrated by the example in paragraph (b) of this section, if:

(1) The recipient is contributing a substantial share of the costs of achieving the outcomes, which must meet the criteria in § 603.305(a); and

(2) The contracting officer is confident that the costs of achieving the outcomes will be at least a minimum amount that can be specified and the recipient is willing to accept the possibility that its cost sharing percentage ultimately will be higher if the costs exceed that minimum amount.

(b) To illustrate the approach, consider a project for which the contracting officer is confident that the recipient will have to expend at least $800,000 to achieve the specified outcomes. The contracting officer must determine, in conjunction with program officials, the minimum level of recipient cost sharing required to demonstrate the recipient's commitment to the success of the project. For purposes of this illustration, let that minimum recipient cost sharing be 60% of the total project costs. In that case, the Federal share should be no more than 40% and the contracting officer could set a fixed level of Federal support at $320,000 (40% of $800,000). With that fixed level of Federal support, the recipient would be responsible for the balance of the costs needed to complete the project.

(c) Note, however, that the level of recipient cost sharing negotiated should be based solely on the level needed to demonstrate the recipient's commitment. The contracting officer may not use a shortage of Federal Government funding for the program as a reason to try to persuade a recipient to accept a fixed-support TIA, rather than an expenditure-based instrument, or to accept responsibility for a greater share of the total project costs than it otherwise is willing to offer. If there is insufficient funding to provide an appropriate Federal Government share for the entire project, the contracting officer should re-scope the effort covered by the agreement to match the available funding.

§ 603.565 Use of a hybrid instrument.

For a RD&D project that is to be carried out by a number of participants, the contracting officer may award a TIA that provides for some participants to perform under fixed-support arrangements and others to perform under expenditure-based arrangements. This approach may be useful, for example, if a commercial firm that is a participant will not accept an agreement with all of the post-award requirements of an expenditure-based award. Before using a fixed-support arrangement for that firm's portion of the project, the agreement must meet the criteria in § 603.305.

Accounting, Payments, and Recovery of Funds

§ 603.570 Determining milestone payment amounts.

(a) If the contracting officer selects the milestone payment method (see § 603.805), the contracting officer must assess the reasonableness of the estimated amount for reaching each milestone. This assessment enables the contracting officer to set the amount of each milestone payment to approximate the Federal share of the anticipated resource needs for carrying out that phase of the RD&D effort.

(b) The Federal share at each milestone need not be the same as the Federal share of the total project. For example, the contracting officer might deliberately set payment amounts with a larger Federal share for early milestones if a project involves a start-up company with limited resources.

(c) For an expenditure-based TIA, if the contracting officer establishes minimum cost sharing percentages for each milestone, those percentages should be indicated in the agreement.

(d) For a fixed-support TIA, the milestone payments should be associated with the well-defined, observable, and verifiable technical outcomes (e.g., demonstrations, tests, or data analysis) that are established for the project in accordance with §§ 603.305(a) and 603.560(a).

§ 603.575 Repayment of Federal cost share.

In accordance with the Energy Policy Act of 2005 (Pub. L. 109–58), section 988(e), the contracting officer may not require repayment of the Federal share of a cost-shared TIA as a condition of making an award, unless otherwise authorized by statute.

Subpart F—Award Terms Affecting Participants' Financial, Property, and Purchasing Systems

§ 603.600 Administrative matters.

This subpart addresses ''systemic'' administrative matters that place requirements on the operation of a participant's financial management, property management, or purchasing system. Each participant's systems are organization-wide and do not vary with each agreement. Therefore, a TIA should address systemic requirements in a uniform way for each type of participant organization.

§ 603.605 General policy.

The general policy for an expenditure-based TIA is to avoid requirements that would force participants to use different financial management, property management, and purchasing systems than they currently use for:

(a) Expenditure-based Federal procurement contracts and assistance awards in general, if they receive them; or

(b) Commercial business, if they have no expenditure-based Federal procurement contracts and assistance awards.

§ 603.610 Flow down requirements.

If it is an expenditure-based award, the TIA must require participants to provide the same financial management, property management, and purchasing systems requirements to a subrecipient that would apply if the subrecipient were a participant. For example, a for-profit participant would require a university subrecipient to comply with the requirements that apply to a university participant. Note that this policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA and not to participants' purchases of goods or services needed to carry out the RD&D.

Financial Matters

§ 603.615 Financial management standards for-profit firms.

(a) To avoid causing needless changes in participants' financial management systems, an expenditure-based TIA will make for-profit participants that currently perform under other expenditure-based Federal procurement contracts or assistance awards subject to the same standards for financial management systems that apply to those other awards. Therefore, if a for-profit participant has expenditure-based DOE assistance awards other than a TIA, the TIA must apply the standards in 10 CFR 600.311. The contracting officer may grant an exception and allow a for-profit participant that has other expenditure-based Federal Government awards to use an alternative set of standards that meets the minimum criteria in paragraph (b) of this section, if there is a compelling programmatic or business reason to do so. For each case in which

an exception is granted, the contracting officer must document the reason in the award file.

(b) For an expenditure-based TIA, the contracting officer is to allow and encourage each for-profit participant that does not currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) to use its existing financial management system as long as the system, as a minimum:

(1) Complies with Generally Accepted Accounting Principles.

(2) Effectively controls all project funds, including Federal funds and any required cost share. The system must have complete, accurate, and current records that document the sources of funds and the purposes for which they are disbursed. It also must have procedures for ensuring that project funds are used only for purposes permitted by the agreement (see § 603.625).

(3) Includes, if advance payments are authorized under § 603.805, procedures to minimize the time elapsing between the payment of funds by the Government and the firm's disbursement of the funds for program purposes.

§ 603.620 Financial management standards for nonprofit participants.

So as not to force system changes for any State, local government, institution of higher education, or other nonprofit organization, expenditure-based TIA requirements for the financial management system of any nonprofit participant are to be the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 10 CFR 600.220 for State and local governments; and

(b) 10 CFR 600.121(b) for other nonprofit organizations, with the exception of nonprofit Government-owned, contractor-operated (GOCO) facilities and Federally Funded Research and Development Centers (FFRDCs) that are excepted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the contracting officer must specify appropriate standards that conform as much as practicable with requirements in their procurement contract.

§ 603.625 Cost principles or standards applicable to for-profit participants.

(a) So as not to require any firm to needlessly change its cost accounting system, an expenditure-based TIA is to apply the Government cost principles in 48 CFR part 31 to for-profit participants that currently perform under expenditure-based Federal procurement contracts or assistance awards (other than a TIA) and therefore have existing systems for identifying allowable costs under those principles. If there are programmatic or business reasons to do otherwise, the contracting officer may grant an exception from this requirement and use alternative standards as long as the alternative satisfies the conditions described in paragraph (b) of this section; if an exception is granted the reasons must be documented in the award file.

(b) For other for-profit participants, the contracting officer may establish alternative standards in the agreement as long as that alternative provides, as a minimum, that Federal funds and funds counted as recipients' cost sharing will be used only for costs that:

(1) A reasonable and prudent person would incur in carrying out the RD&D project contemplated by the agreement. Generally, elements of cost that appropriately are charged are those identified with RD&D activities under the Generally Accepted Accounting Principles (see Statement of Financial Accounting Standards Number 2, ''Accounting for Research and Development Costs,'' October 1974). Moreover, costs must be allocated to DOE and other projects in accordance with the relative benefits the projects receive. Costs charged to DOE projects must be given consistent treatment with costs allocated to the participants' other RD&D activities (e.g., activities supported by the participants themselves or by non-Federal sponsors).

(2) Are consistent with the purposes stated in the governing Congressional authorizations and appropriations. The contracting officer is responsible for ensuring that provisions in the award document address any requirements that result from authorizations and appropriations.

§ 603.630 Use Federally approved indirect cost rates for for-profit firms.

In accordance with the general policy in § 603.605, the contracting officer must require a for-profit participant that has Federally approved indirect cost rates for its Federal procurement contracts to use those rates to accumulate and report costs under an expenditure-based TIA. This includes both provisional and final rates that are approved up until the time that the TIA is closed out.

§ 603.635 Cost principles for nonprofit participants.

So as not to force financial system changes for any nonprofit participant, an expenditure-based TIA will provide that costs to be charged to the RD&D project by any nonprofit participant must be determined to be allowable in accordance with:

(a) OMB Circular A–87, if the participant is a State or local governmental organization;

(b) OMB Circular A–21, if the participant is an institution of higher education;

(c) 45 CFR part 74, Appendix E, if the participant is a hospital; or

(d) OMB Circular A–122, if the participant is any other type of nonprofit organization (the cost principles in 48 CFR parts 31 and 231 are to be used by any nonprofit organization that is identified in Circular A–122 as being subject to those cost principles).

§ 603.640 Audits of for-profit participants.

If the TIA is an expenditure-based award, the contracting officer must include in it an audit provision that addresses, for each for-profit participant:

(a) Whether the for-profit participant must have periodic audits, in addition to any award-specific audits, as described in § 603.645;

(b) Whether the Defense Contract Audit Agency (DCAA) or an independent public accountant (IPA) will perform required audits, as discussed in § 603.650;

(c) How frequently any periodic audits are to be performed, addressed in § 603.655; and

(d) Other matters described in § 603.660, such as audit coverage, allowability of audit costs, auditing standards, and remedies for noncompliance.

§ 603.645 Periodic audits and award-specific audits of for-profit participants.

The contracting officer needs to consider requirements for both periodic audits and award-specific audits (as defined in § 603.1295 and § 603.1220, respectively). The way that an expenditure-based TIA addresses the two types of audits will vary, depending upon the type of for-profit participant.

(a) For for-profit participants that are audited by the DCAA or other Federal auditors, as described in §§ 603.650(b) and 603.655, specific requirements for periodic audits need not be added because the Federal audits should be sufficient to address whatever may be needed. The inclusion in the TIA of the standard access-to-records provision for those for-profit participants, as discussed in § 603.910(a), gives the necessary access in the event that the contracting officer later needs to request

audits to address award-specific issues that arise.

(b) For each other for-profit participant, the contracting officer:

(1) Should require that the participant have an independent auditor (i.e., the DCAA or an independent public accountant (IPA)) conduct periodic audits of its systems if it expends $500,000 or more per year in TIAs and other Federal assistance awards. A prime reason for including this requirement is that the Federal Government, for an expenditure-based award, necessarily relies on amounts reported by the participant's systems when it sets payment amounts or adjusts performance outcomes. The periodic audit provides some assurance that the reported amounts are reliable.

(2) Must ensure that the award provides an independent auditor the access needed for award-specific audits, to be performed at the request of the contracting officer if issues arise that require audit support. However, consistent with the government-wide policies on single audits that apply to nonprofit participants (see § 603.665), the contracting officer should rely on periodic audits to the maximum extent possible to resolve any award-specific issues.

§ 603.650 Designation of auditor for for-profit participants.

The auditor identified in an expenditure-based TIA to perform periodic and award-specific audits of a for-profit participant depends on the circumstances, as follows:

(a) DCAA or an IPA will be the auditor for a for-profit participant that does not meet the criteria in paragraph (b) of this section. Note that the allocable portion of the costs of the IPA's audit may be reimbursable under the TIA, as described in § 603.660(b). The IPA should be the one that the participant uses to perform other audits (e.g., of its financial statement), to minimize added burdens and costs.

(b) Except as provided in paragraph (c) of this section, the Federal cognizant agency (e.g., DCAA) must be identified as the auditor for any for-profit participant that is subject to Federal audits because it is currently performing under a Federal award that is subject to the:

(1) Cost principles in 48 CFR part 31 of the Federal Acquisition Regulation (FAR); or

(2) Cost Accounting Standards in 48 CFR Chapter 99.

(c) If there are programmatic or business reasons that justify the use of an auditor other than the Federal cognizant agency for a for-profit participant that meets the criteria in paragraph (b) of this section, the contracting officer may provide that an IPA will be the auditor for that participant in which case the reasons for this decision must be documented in the award file.

§ 603.655 Frequency of periodic audits of for-profit participants.

If an expenditure-based TIA provides for periodic audits of a for-profit participant by an IPA, the contracting officer must specify the frequency for those audits. The contracting officer should consider having an audit performed during the first year of the award, when the participant has its IPA do its next financial statement audit, unless the participant already had a systems audit due to other Federal awards within the past two years. The frequency thereafter may vary depending upon the dollars the participant is expending annually under the award, but it is not unreasonable to require an updated audit every two to three years to verify that the participant's systems continue to be reliable (the audit then would cover the two or three-year period between audits).

§ 603.660 Other audit requirements.

If an expenditure-based TIA provides for audits of a for-profit participant by an IPA, the contracting officer also must specify:

(a) What periodic audits are to cover. It is important to specify audit coverage that is only as broad as needed to provide reasonable assurance of the participant's compliance with award terms that have a direct and material effect on the RD&D project.

(b) Who will pay for periodic and award-specific audits. The allocable portion of the costs of any audits by IPAs may be reimbursable under the TIA. The costs may be direct charges or allocated indirect costs, consistent with the participant's accounting system and practices.

(c) The auditing standards that the IPA will use. The contracting officer must provide that the IPA will perform the audits in accordance with the Generally Accepted Government Auditing Standards.

(d) The available remedies for noncompliance. The agreement must provide that the participant may not charge costs to the award for any audit that the contracting officer determines was not performed in accordance with the Generally Accepted Government Auditing Standards or other terms of the agreement. It also must provide that the Government has the right to require the participant to have the IPA take corrective action and, if corrective action is not taken, that the agreements officer has recourse to any of the remedies for noncompliance identified in 10 CFR 600.352(a).

(e) Where the IPA is to send audit reports. The agreement must provide that the IPA is to submit audit reports to the contracting officer. It also must require that the IPA report instances of fraud directly to the Office of Inspector General (OIG), DOE.

(f) The retention period for the IPA's working papers. The contracting officer must specify that the IPA is to retain working papers for a period of at least three years after the final payment, unless the working papers relate to an audit whose findings are not fully resolved within that period or to an unresolved claim or dispute (in which case, the IPA must keep the working papers until the matter is resolved and final action taken).

(g) Who will have access to the IPA's working papers. The agreement must provide for Government access to working papers.

§ 603.665 Periodic audits of nonprofit participants.

An expenditure-based TIA is an assistance instrument subject to the Single Audit Act (31 U.S.C. 7501–7507), so nonprofit participants are subject to the requirements under that Act and OMB Circular A–133. Specifically, the requirements are those in:

(a) 10 CFR 600.226 for State and local governments; and

(b) 10 CFR 600.126 for other nonprofit organizations.

§ 603.670 Flow down audit requirements to subrecipients.

(a) In accordance with § 603.610, an expenditure-based TIA must require participants to flow down the same audit requirements to a subrecipient that would apply if the subrecipient were a participant.

(b) For example, a for-profit participant that is audited by the DCAA:

(1) Would flow down to a university subrecipient the Single Audit Act requirements that apply to a university participant;

(2) Could enter into a subaward allowing a for-profit participant, under the circumstances described in § 603.650(a), to use an IPA to do its audits.

(c) This policy applies to subawards for substantive performance of portions of the RD&D project supported by the TIA, and not to participants' purchases of goods or services needed to carry out the RD&D.

§ 603.675 Reporting use of IPA for subawards.

An expenditure-based TIA should require participants to report to the contracting officer when they enter into any subaward allowing a for-profit subawardee to use an IPA, as described in § 603.670(b)(2).

Property

§ 603.680 Purchase of real property and equipment by for-profit firms.

(a) With the two exceptions described in paragraph (b) of this section, the contracting officer must require a for-profit firm to purchase real property or equipment with its own funds that are separate from the RD&D project. The contracting officer should allow the firm to charge to an expenditure-based TIA only depreciation or use charges for real property or equipment (and the cost estimate for a fixed-support TIA only would include those costs). Note that the firm must charge depreciation consistently with its usual accounting practice. Many firms treat depreciation as an indirect cost. Any firm that usually charges depreciation indirectly for a particular type of property must not charge depreciation for that property as a direct cost to the TIA.

(b) In two situations, the contracting officer may grant an exception and allow a for-profit firm to use project funds, which includes both the Federal Government and recipient shares, to purchase real property or equipment (i.e., to charge to the project the full acquisition cost of the property). The two circumstances, which should be infrequent for equipment and extremely rare for real property, are those in which either:

(1) The real property or equipment will be dedicated to the project and has a current fair market value that is less than $5,000 by the time the project ends; or

(2) The contracting officer gives prior approval for the firm to include the full acquisition cost of the real property or equipment as part of the cost of the project (see § 603.535).

(c) If the contracting officer grants an exception in either of the circumstances described in paragraphs (b)(1) and (2) of this section, the real property or equipment must be subject to the property management standards in 10 CFR 600.321(b) through (e). As provided in those standards, the title to the real property or equipment will vest conditionally in the for-profit firm upon acquisition. A TIA, whether it is a fixed-support or expenditure-based award, must specify that any item of equipment that has a fair market value of $5,000 or more at the conclusion of the project also will be subject to the disposition process in 10 CFR 600.321(f), whereby the Federal Government will recover its interest in the property at that time.

§ 603.685 Management of real property and equipment by nonprofit participants.

For nonprofit participants, a TIA's requirements for vesting of title, use, management, and disposition of real property or equipment acquired under the award are the same as those that apply to the participant's other Federal assistance awards. Specifically, the requirements are those in:

(a) 10 CFR 600.231 and 600.232, for participants that are States and local governmental organizations; and

(b) 10 CFR 600.132 and 600.134, for other nonprofit participants, with the exception of nonprofit GOCOs and FFRDCs that are exempted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the contracting officer must specify appropriate standards that conform as much as practicable with the requirements in its procurement contract. Note also that:

(1) If the TIA is a cooperative agreement, 31 U.S.C. 6306 provides authority to vest title to tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research, without further obligation to the Federal Government; and

(2) A TIA therefore must specify any conditions on the vesting of title to real property or equipment acquired by any such nonprofit participant.

§ 603.690 Requirements for Federally-owned property.

If DOE provides Federally-owned property to any participant for the performance of RD&D under a TIA, the contracting officer must require that participant to account for, use, and dispose of the property in accordance with:

(a) 10 CFR 600.322, if the participant is a for-profit firm.

(b) 10 CFR 600.232(f), if the participant is a State or local governmental organization. Note that 10 CFR 600.232(f) contains additional requirements for managing the property.

(c) 10 CFR 600.133(a) and 600.134(f), if the participant is a nonprofit organization other than a GOCO or FFRDC (requirements for GOCOs and FFRDCs should conform with the property standards in their procurement contracts).

§ 603.695 Requirements for supplies.

An expenditure-based TIA's provisions should permit participants to use their existing procedures to account for and manage supplies. A fixed-support TIA should not include requirements to account for or manage supplies.

Purchasing

§ 603.700 Standards for purchasing systems of for-profit firms.

(a) If the TIA is an expenditure-based award, it should require for-profit participants that currently perform under DOE assistance instruments subject to the purchasing standards in 10 CFR 600.331 to use the same requirements for the TIA, unless there are programmatic or business reasons to do otherwise (in which case the reasons must be documented in the award file).

(b) Other for-profit participants under an expenditure-based TIA should be allowed to use their existing purchasing systems, as long as they flow down the applicable requirements in Federal statutes, Executive Orders or Government-wide regulations (see Appendices A and B to this part for a list of those requirements).

§ 603.705 Standards for purchasing systems of nonprofit organizations.

So as not to force system changes for any nonprofit participant, an expenditure-based TIA should provide that each nonprofit participant's purchasing system comply with:

(a) 10 CFR 600.236, if the participant is a State or local governmental organization.

(b) 10 CFR 600.140 through 10 CFR 600.149, if the participant is a nonprofit organization other than a GOCO or FFRDC that is excepted from the definition of ''recipient'' in 10 CFR 600.101. If a GOCO or FFRDC is a participant, the TIA must specify appropriate standards that conform as much as practicable with requirements in its procurement contract.

Subpart G—Award Terms Related to Other Administrative Matters

§ 603.800 Scope.

This subpart addresses administrative matters that do not impose organization-wide requirements on a participant's financial management, property management, or purchasing system. Because an organization does not have to redesign its systems to accommodate award-to-award variations in these requirements, TIAs may differ in the requirements that they specify for a given participant, based on the circumstances of the particular RD&D

project. To eliminate needless administrative complexity, the contracting officer should handle some requirements, such as the payment method, in a uniform way for the agreement as a whole.

Payments

§ 603.805 Payment methods.

A TIA may provide for:

(a) *Reimbursement*, as described in 10 CFR 600.312(a)(1), if it is an expenditure-based award.

(b) *Advance payments*, as described in 10 CFR 600.312(a)(2), subject to the conditions in 10 CFR 600.312(b)(2)(i) through (iii).

(c) *Payments based on payable milestones*. These are payments made according to a schedule that is based on predetermined measures of technical progress or other payable milestones. This approach relies upon the fact that, as the RD&D progresses throughout the term of the agreement, observable activity will be taking place. The recipient is paid upon the accomplishment of a predetermined measure of progress. A fixed-support TIA must use this payment method (this does not preclude use of an initial advance payment, if there is no alternative to meeting immediate cash needs). Payments based on payable milestones is the preferred method of payment for an expenditure-based TIA if well-defined outcomes can be identified.

§ 603.810 Method and frequency of payment requests.

The procedure and frequency for payment requests depend upon the payment method, as follows:

(a) For either reimbursements or advance payments, the TIA must allow recipients to submit requests for payment at least monthly. The contracting officer may authorize the recipients to use the forms or formats described in 10 CFR 600.312(d).

(b) If the payments are based on payable milestones, the recipient will submit a report or other evidence of accomplishment to the program official at the completion of each predetermined activity. If the award is an expenditure-based TIA that includes minimum cost sharing percentages for milestones (see 10 CFR 603.570(c), the recipient must certify in the report that the minimum cost sharing requirement has been met. The contracting officer may approve payment to the recipient after receiving validation from the program manager that the milestone was successfully reached.

§ 603.815 Withholding payments.

A TIA must provide that the contracting officer may withhold payments in the circumstances described in 10 CFR 600.312(g), but not otherwise.

§ 603.820 Interest on advance payments.

If an expenditure-based TIA provides for either advance payments or payable milestones, the agreement must require the recipient to:

(a) Maintain in an interest-bearing account any advance payments or milestone payment amounts received in advance of needs to disburse the funds for program purposes unless:

(1) The recipient receives less than $120,000 in Federal grants, cooperative agreements, and TIAs per year;

(2) The best reasonably available interest-bearing account would not be expected to earn interest in excess of $1,000 per year on the advance or milestone payments; or

(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources for the project.

(b) Remit annually the interest earned to the contracting officer.

Revision of Budget and Program Plans

§ 603.825 Government approval of changes in plans.

If it is an expenditure-based award, a TIA must require the recipient to obtain the contracting officer's prior approval if there is to be a change in plans that may result in a need for additional Federal funding (this is unnecessary for a fixed-support TIA because the recipient is responsible for additional costs of achieving the outcomes). Other than that, the program official's substantial involvement in the project should ensure that the Government has advance notice of changes in plans.

§ 603.830 Pre-award costs.

Pre-award costs, as long as they are otherwise allowable costs of the project, may be charged to an expenditure-based TIA only with the specific approval of the contracting officer. All pre-award costs are incurred at the recipient's risk (e.g. , DOE is not obligated to reimburse the costs if, for any reason, the recipient does not receive an award, or if the award is less than anticipated and inadequate to cover the costs).

Program Income

§ 603.835 Program income requirements.

A TIA must apply the standards of 10 CFR 600.314 for program income that may be generated. The TIA must also specify if the recipient is to have any obligation to the Federal Government with respect to program income generated after the end of the project period (.e., the period, as established in the award document, during which Federal support is provided).

Intellectual Property

§ 603.840 Negotiating data and patent rights.

(a) The contracting officer must confer with program officials and assigned intellectual property counsel to develop an overall strategy for intellectual property that takes into account inventions and data that may result from the project and future needs the Government may have for rights in them. The strategy should take into account program mission requirements and any special circumstances that would support modification of standard patent and data terms, and should include considerations such as the extent of the recipient's contribution to the development of the technology; expected Government or commercial use of the technology; the need to provide equitable treatment among consortium or team members; and the need for the DOE to engage non-traditional Government contractors with unique capabilities.

(b) Because a TIA entails substantial cost sharing by recipients, the contracting officer must use discretion in negotiating Government rights to data and patentable inventions resulting from the RD&D under the agreements. The considerations in §§ 603.845 through 603.875 are intended to serve as guidelines, within which there is considerable latitude to negotiate provisions appropriate to a wide variety of circumstances that may arise.

§ 603.845 Data rights requirements.

(a) If the TIA is a cooperative agreement, the requirements at 10 CFR 600.325(d), *Rights in data-general rule*, apply. The ''Rights in Data—General'' provision in Appendix A to Subpart D of 10 CFR 600 normally applies. This provision provides the Government with unlimited rights in data first produced in the performance of the agreement, except as provided in paragraph (c) Copyright. However, in certain circumstances, the ''Rights in Data—Programs Covered Under Special Protected Data Statutes'' provision in Appendix A may apply.

(b) If the TIA is an assistance transaction other than a cooperative agreement, the requirements at 10 CFR 600.325(e), *Rights in data—programs covered under special protected data statutes*, normally apply. The ''Rights in

Data—Programs Covered Under Special Data Statutes'' provision in Appendix A to Subpart D of 10 CFR 600 may be modified to accommodate particular circumstances (e.g., access to or expanded use rights in protected data among consortium or team members), or to list data or categories of data that the recipient must make available to the public. In unique cases, the contracting officer may negotiate special data rights requirements that vary from those in 10 CFR 600.325. Modifications to the standard data provisions must be approved by intellectual property counsel.

§ 603.850 Marking of data.

To protect the recipient's interests in data, the TIA should require the recipient to mark any particular data that it wishes to protect from disclosure with a specific legend specified in the agreement identifying the data as data subject to use, release, or disclosure restrictions.

§ 603.855 Protected data.

In accordance with law and regulation, the contracting officer must not release or disclose data marked with a restrictive legend (as specified in § 603.850) to third parties, unless they are parties authorized by the award agreement or the terms of the legend to receive the data and are subject to a written obligation to treat the data in accordance with the marking.

§ 603.860 Rights to inventions.

(a) The contracting officer should negotiate rights in inventions that represent an appropriate balance between the Government's interests and the recipient's interests.

(1) The contracting officer has the flexibility to negotiate patent rights requirements that vary from that which the Bayh-Dole statute (Chapter 18 of Title 35, U.S.C.) and 42 U.S.C. 2182 and 5908 require. A TIA becomes an assistance transaction other than a cooperative agreement if its patent rights requirements vary from those required by these statutes.

(2) If the TIA is a cooperative agreement, the patent rights provision of 10 CFR 600.325(b) or (c) or 10 CFR 600.136 applies, depending on the type of recipient. Unless a class waiver has been issued, it will be necessary for a large, for-profit business to request a patent waiver to obtain title to subject inventions.

(b) The contracting officer may negotiate Government rights that vary from the statutorily-required patent rights requirements described in paragraph (a)(2) of this section when necessary to accomplish program objectives and foster the Government's interests. Doing so would make the TIA an assistance transaction other than a cooperative agreement. The contracting officer must decide, with the help of the program manager and assigned intellectual property counsel, what best represents a reasonable arrangement considering the circumstances, including past investments of the recipient to development of the technology, contributions under the current TIA, and potential commercial and Government markets. Any change to the standard patent rights provisions must be approved by assigned intellectual property counsel.

(c) Taking past investments as an example, the contracting officer should consider whether the Government or the recipient has contributed more substantially to the prior RD&D that provides the foundation for the planned effort. If the predominant past contributor to the particular technology has been:

(1) The Government, then the TIA's patent rights provision should be the standard provision as set forth in 10 CFR 600.325(b) or (c), or 10 CFR 600.136, as applicable.

(2) The recipient, then less restrictive patent requirements may be appropriate, which would make the TIA an assistance transaction other than a cooperative agreement. The contracting officer normally would, with the concurrence of intellectual property counsel, allow the recipient to retain title to subject inventions without going through the process of obtaining a patent waiver as required by 10 CFR 784. For example, with the concurrence of intellectual property counsel, the contracting officer also could eliminate or modify the nonexclusive paid-up license for practice by or on behalf of the Government to allow the recipient to benefit more directly from its investments.

§ 603.865 March-in rights.

A TIA's patent rights provision should include the Bayh-Dole march-in rights set out in paragraph (j) of the Patent Rights (Small Business Firms and Nonprofit Organization) provision in Appendix A to subpart D of 10 CFR 600, or an equivalent clause, concerning actions that the Government may take to obtain the right to use subject inventions, if the recipient fails to take effective steps to achieve practical application of the subject inventions within a reasonable time. The march-in provision may be modified to best meet the needs of the program. However, only infrequently should the march-in provision be entirely removed (e.g., if a recipient is providing most of the funding for a RD&D project, with the Government providing a much smaller share).

§ 603.870 Marking of documents related to inventions.

To protect the recipient's interest in inventions, the TIA should require the recipient to mark documents disclosing inventions it desires to protect by obtaining a patent. The recipient should mark the documents with a legend identifying them as intellectual property subject to public release or public disclosure restrictions, as provided in 35 U.S.C. 205.

§ 603.875 Foreign access to technology and U.S. competitiveness provisions.

(a) Consistent with the objective of enhancing national security and United States competitiveness by increasing the public's reliance on the United States commercial technology, the contracting officer must include provisions in a TIA that addresses foreign access to technology developed under the TIA.

(b) A provision must provide, as a minimum, that any transfer of the technology must be consistent with the U.S. export laws, regulations and the Department of Commerce Export Regulation at Chapter VII, Subchapter C, Title 15 of the CFR (15 CFR parts 730 through 774), as applicable.

(c) A provision should also provide that any products embodying, or produced through the use of, any created intellectual property, will be manufactured substantially in the United States, and that any transfer of the right to use or sell the products must, unless the Government grants a waiver, require that the products will be manufactured substantially in the United States. In individual cases, the contracting officer, with the approval of the program official and intellectual property counsel, may waive or modify the requirement of substantial manufacture in the United States at the time of award, or subsequent thereto, upon a showing by the recipient that:

(1) Alternative benefits are being secured for the United States taxpayer (e.g., increased domestic jobs notwithstanding foreign manufacture);

(2) Reasonable but unsuccessful efforts have been made to transfer the technology under similar terms to those likely to manufacture substantially in the United States; or

(3) Under the circumstances domestic manufacture is not commercially feasible.

Financial and Programmatic Reporting

§ 603.880 Reports requirements.

A TIA must include requirements that, as a minimum, provide for periodic reports addressing program performance and, if it is an expenditure-based award, business/financial status. The contracting officer must require submission of the reports at least annually, and may require submission as frequently as quarterly (this does not preclude a recipient from electing to submit more frequently than quarterly the financial information that is required to process payment requests if the award is an expenditure-based TIA that uses reimbursement or advance payments under § 603.810(a)). The requirements for the content of the reports are as follows:

(1) The program portions of the reports must address progress toward achieving performance goals and milestones, including current issues, problems, or developments.

(2) The business/financial portions of the reports, applicable only to expenditure-based awards, must provide summarized details on the status of resources (federal funds and non-federal cost sharing), including an accounting of expenditures for the period covered by the report. The report should compare the resource status with any payment and expenditure schedules or plans provided in the original award; explain any major deviations from those schedules; and discuss actions that will be taken to address the deviations. The contracting officer may require a recipient to separately identify in these reports the expenditures for each participant in a consortium and for each programmatic milestone or task, if the contracting officer, after consulting with the program official, judges that those additional details are needed for good stewardship.

§ 603.885 Updated program plans and budgets.

In addition to reports on progress to date, a TIA may include a provision requiring the recipient to annually prepare an updated technical plan for future conduct of the research effort and a revised budget if there is a significant change from the initial budget.

§ 603.890 Final performance report.

A TIA must require a final performance report that addresses all major accomplishments under the TIA.

§ 603.895 Protection of information in programmatic reports.

If a TIA is awarded under the authority of 42 U.S.C. 7256(g) (i.e., it is a type of assistance transaction ''other than'' a contract, grant or a cooperative agreement), the contracting officer may inform a participant that the award is covered by a special protected data statute, which provides for the protection from public disclosure, for a period of up to 5 years after the date on which the information is developed, any information developed pursuant to this transaction that would be trade secret, or commercial or financial information that is privileged or confidential, if the information had been obtained from a non-Federal party.

§ 603.900 Receipt of final performance report.

If a final report is required, the TIA should make receipt of the report a condition for final payment. If the payments are based on payable milestones, the submission and acceptance of the final report by the Government representative will be incorporated as an event that is a prerequisite for one of the payable milestones.

Records Retention and Access Requirements

§ 603.905 Record retention requirements.

A TIA must require participants to keep records related to the TIA (for which the agreement provides Government access under § 603.910) for a period of three years after submission of the final financial status report for an expenditure-based TIA or final program performance report for a fixed-support TIA, with the following exceptions:

(a) The participant must keep records longer than three years after submission of the final financial status report if the records relate to an audit, claim, or dispute that begins but does not reach its conclusion within the 3-year period. In that case, the participant must keep the records until the matter is resolved and final action taken.

(b) Records for any real property or equipment acquired with project funds under the TIA must be kept for three years after final disposition.

§ 603.910 Access to a for-profit participant's records.

(a) If a for-profit participant currently grants access to its records to the DCAA or other Federal Government auditors, the TIA must include for that participant the standard access-to-records requirements at 10 CFR 600.342(e). If the agreement is a fixed-support TIA, the language in 10 CFR 600.342(e) may be modified to provide access to records concerning the recipient's technical performance, without requiring access to the recipient's financial or other records. Note that any need to address access to technical records in this way is in addition to, not in lieu of, the need to address rights in data (see § 603.845).

(b) For other for-profit participants that do not currently give the Federal Government direct access to their records and are not willing to grant full access to records pertinent to the award, the contracting officer may negotiate limited access to the recipient's financial records. For example, if the audit provision of an expenditure-based TIA gives an IPA access to the recipient's financial records for audit purposes, the Federal Government must have access to the IPA's reports and working papers and the contracting officer need not include a provision requiring direct Government access to the recipient's financial records. For both fixed-support and expenditure-based TIAs, the TIA must include the access-to-records requirements at 10 CFR 600.342(e) for records relating to technical performance.

§ 603.915 Access to a nonprofit participant's records.

A TIA must include for any nonprofit participant the standard access-to-records requirement at:

(a) 10 CFR 600.242(e), for a participant that is a State or local governmental organization;

(b) 10 CFR 600.153(e), for a participant that is a nonprofit organization. The same requirement applies to any GOCO or FFRDC, even though nonprofit GOCOs and FFRDCs are exempted from the definition of ''recipient'' in 10 CFR 600.101.

Termination and Enforcement

§ 603.920 Termination and enforcement requirements.

(a) Termination. A TIA must include the following conditions for termination:

(1) An award may be terminated in whole or in part by the contracting officer, if a recipient materially fails to comply with the terms and conditions of the award.

(2) Subject to a reasonable determination by either party that the project will not produce beneficial results commensurate with the expenditure of resources, that party may terminate in whole or in part the agreement by providing at least 30 days advance written notice to the other party, provided such notice is preceded by consultation between the parties. The two parties will negotiate the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. If either party determines in

the case of partial termination that the reduced or modified portion of the award will not accomplish the purpose for which the award was made, the award may be terminated in its entirety.

(3) Unless otherwise negotiated, for terminations of an expenditure based TIA, DOE's maximum liability is the lesser of:

(i) DOE's share of allowable costs incurred up to the date of termination, or

(ii) The amount of DOE funds obligated to the TIA.

(4) Unless otherwise negotiated, for terminations of a fixed-support based TIA, DOE shall pay the recipient a proportionate share of DOE's financial commitment to the project based on the percent of project completion as of the date of termination.

(5) Notwithstanding paragraphs (3) and (4) of this section, if the award includes milestone payments, the Government has no obligation to pay the recipient beyond the last completed and paid milestone if the recipient decides to terminate.

(b) Enforcement. The standards of 10 CFR 600.352 (for enforcement) and the procedures in 10 CFR 600.22 (for disputes and appeals) apply.

Subpart H—Executing the Award

§ 603.1000 Contracting officer's responsibilities at time of award.

At the time of the award, the contracting officer must:

(a) Ensure that the award document contains the appropriate terms and conditions and is signed by the appropriate parties, in accordance with §§ 603.1005 through 603.1015.

(b) Document the analysis of the agreement in the award file, as discussed in § 603.1020.

(c) Provide information about the award to the office responsible for reporting on TIAs.

The Award Document

§ 603.1005 General responsibilities.

The contracting officer is responsible for ensuring that the award document is complete and accurate. The document should:

(a) Address all issues;

(b) State requirements directly. It is not helpful to readers to incorporate statutes or rules by reference, without sufficient explanation of the requirements. The contracting officer generally should not incorporate clauses from the Federal Acquisition Regulation (48 CFR parts 1–53) or Department of Energy Acquisition Regulation (48 CFR parts 901–970) because those provisions are designed for procurement contracts that are used to acquire goods and services, rather than for a TIA or other assistance instruments.

(c) Be written in clear and concise language, to minimize potential ambiguity.

§ 603.1010 Substantive issues.

Each TIA is designed and negotiated individually to meet the specific requirements of the particular project, so the list of substantive issues that will be addressed in the award document may vary. Every award document must address:

(a) *Project scope.* The scope is an overall vision statement for the project, including a discussion of the project's purpose, objectives, and detailed commercial goals. It is a critical provision because it provides a context for resolving issues that may arise during post-award administration. In a fixed-support TIA, the well-defined outcomes that reliably indicate the amount of effort expended and serve as the basis for the level of the fixed support must be clearly specified (see §§ 603.305 and 603.560(a)).

(b) *Project management.* The TIA should describe the nature of the relationship between the Federal Government and the recipient; the relationship among the participants, if the recipient is an unincorporated consortium; and the overall technical and administrative management of the project. A TIA is used to carry out collaborative relationships between the Federal Government and the recipient. Consequently, there must be substantial involvement of the DOE program official (see § 603.220) and usually the contracting officer. The program official provides technical insight, which differs from the usual technical oversight of a project. The management provision also should discuss how modifications to the TIA are made.

(c) *Termination, enforcement, and disputes.* A TIA must provide for termination, enforcement remedies, and disputes and appeals procedures, in accordance with § 603.920.

(d) *Funding.* The TIA must:

(1) Show the total amount of the agreement and the total period of performance.

(2) If the TIA is an expenditure-based award, state the Government's and recipient's agreed-upon cost shares for the project period and for each budget period. The award document should identify values for any in-kind contributions, determined in accordance with §§ 603.530 through 603.555, to preclude later disagreements about them.

(3) Specify the amount of Federal funds obligated and the performance period for those obligated funds.

(4) State, if the agreement is to be incrementally funded, that the Government's obligation for additional funding is contingent upon the availability of funds and that no legal obligation on the part of the Government exists until additional funds are made available and the agreement is amended. The TIA also must include a prior approval requirement for changes in plans requiring additional Government funding, in accordance with § 603.825.

(e) *Payment.* The TIA must identify the payment method and tell the recipient how, when, and where to submit payment requests, as discussed in §§ 603.805 through 603.815. The payment method must take into account sound cash management practices by avoiding unwarranted cash advances. For an expenditure-based TIA, the payment provision must require the return of interest should excess cash balances occur, in accordance with § 603.820. For any TIA using the milestone payment method described in § 603.805(c), the TIA must include language notifying the recipient that the contracting officer may adjust amounts of future milestone payments if a project's expenditures fall too far below the projections that were the basis for setting the amounts (see § 603.575(c) and § 603.1105(c)).

(f) *Records retention and access to records.* The TIA must include the records retention requirement at § 603.910. The TIA also must provide for access to for-profit and nonprofit participants' records, in accordance with § 603.915 and § 603.920.

(g) *Patents and data rights.* In designing the patents and data rights provision, the TIA must set forth the minimum required Federal Government rights in intellectual property generated under the award and address related matters, as provided in §§ 603.840 through 603.875. It is important to define all essential terms in the patent rights provision.

(h) *Foreign access to technology and U.S. competitiveness.* The TIA must include provisions, in accordance with § 603.875, concerning foreign access and domestic manufacture of products using technology generated under the award.

(i) *Title to, management of, and disposition of tangible property.* The property provisions for for-profit and nonprofit participants must be in accordance with §§ 603.685 through 603.700.

(j) *Financial management systems.* For an expenditure-based award, the

TIA must specify the minimum standards for financial management systems of both for-profit and nonprofit participants, in accordance with §§ 603.615 and 603.620.

(k) *Allowable costs.* If the TIA is an expenditure-based award, it must specify the standards that both for-profit and nonprofit participants are to use to determine which costs may be charged to the project, in accordance with §§ 603.625 through 603.635, as well as § 603.830.

(l) *Audits.* If a TIA is an expenditure-based award, it must include an audit provision for both for-profit and nonprofit participants and subrecipients, in accordance with §§ 603.640 through 603.670 and § 603.675.

(m) *Purchasing system standards.* The TIA should include a provision specifying the standards in §§ 603.700 and 603.705 for purchasing systems of for-profit and nonprofit participants, respectively.

(n) *Program income.* The TIA should specify requirements for program income, in accordance with § 603.835.

(o) *Financial and programmatic reporting.* The TIA must specify the reports that the recipient is required to submit and tell the recipient when and where to submit them, in accordance with §§ 603.880 through 603.900.

(p) *Assurances for applicable national policy requirements.* The TIA must incorporate assurances of compliance with applicable requirements in Federal statutes, Executive Orders, or regulations (except for national policies that require certifications). Appendix A to this part contains a list of commonly applicable requirements that should be augmented with any specific requirements that apply to a particular TIA (e.g., general provisions in the appropriations act for the specific funds that are being obligating).

(q) *Other matters.* The agreement should address any other issues that need clarification, including the name of the contracting officer who will be responsible for post-award administration and the statutory authority or authorities for entering into the TIA. In addition, the agreement must specify that it takes precedence over any inconsistent terms and conditions in collateral documents such as attachments to the TIA or the recipient's articles of collaboration.

§ 603.1015 Execution.

(a) If the recipient is a consortium that is not formally incorporated and the consortium members prefer to have the agreement signed by all of them individually, the agreement may be executed in that manner.

(b) If they wish to designate one consortium member to sign the agreement on behalf of the consortium as a whole, the determination whether to execute the agreement in that way should not be made until the contracting officer reviews the consortium's articles of collaboration with legal counsel.

(1) The purposes of the review are to:

(i) Determine whether the articles properly authorize one participant to sign on behalf of the other participants and are binding on all consortium members with respect to the RD&D project; and

(ii) Assess the risk that otherwise could exist when entering into an agreement signed by a single member on behalf of a consortium that is not a legal entity. For example, the contracting officer should assess whether the articles of collaboration adequately address consortium members' future liabilities related to the RD&D project (e.g., whether they will have joint and severable liability).

(2) After the review, in consultation with legal counsel, the contracting officer should determine whether it is better to have all of the consortium members sign the agreement individually or to allow them to designate one member to sign on all members' behalf.

Reporting Information About the Award

§ 603.1020 File documents.

The award file should include an analysis which:

(a) Briefly describes the program and details the specific commercial benefits that should result from the project supported by the TIA. If the recipient is a consortium that is not formally incorporated, a copy of the signed articles of collaboration should be attached.

(b) Describes the process that led to the award of the TIA, including how DOE solicited and evaluated proposals and selected the one supported through the TIA.

(c) Explains the basis for the decision that a TIA was the most appropriate instrument, in accordance with the factors in Subpart B of this part. The explanation must include the answers to the relevant questions in § 603.225(a) through (d).

(d) Explains how the recipient's cost sharing contributions was valued in accordance with §§ 603.530 through 603.555. For a fixed-support TIA, the file must document the analysis required (see § 603.560) to set the fixed level of Federal support; the documentation must explain how the recipient's minimum cost share was determined and how the expenditures required to achieve the project outcomes were estimated.

(e) Documents the results of the negotiation, addressing all significant issues in the TIA's provisions.

Subpart I—Post-Award Administration

§ 603.1100 Contracting officer's post-award responsibilities.

Generally, the contracting officer's post-award responsibilities are the same responsibilities as those for any cooperative agreement. Responsibilities for a TIA include:

(a) Participating as the business partner to the DOE program official to ensure the Government's substantial involvement in the RD&D project. This may involve attendance with program officials at kickoff meetings or post-award conferences with recipients. It also may involve attendance at the consortium management's periodic meetings to review technical progress, financial status, and future program plans.

(b) Tracking and processing of reports required by the award terms and conditions, including periodic business status reports, programmatic progress reports, and patent reports.

(c) Handling payment requests and related matters. For a TIA using advance payments, that includes reviews of progress to verify that there is continued justification for advancing funds, as discussed in § 603.1105(b). For a TIA using milestone payments, it includes making any needed adjustments in future milestone payment amounts, as discussed in § 603.1105(c).

(d) Making continuation awards for subsequent budget periods, if the agreement includes separate budget periods. See 10 CFR 600.26(b). Any continuation award is contingent on availability of funds, satisfactory progress towards meeting the performance goals and milestones, submittal of required reports, and compliance with the terms and conditions of the award.

(e) Coordinating audit requests and reviewing audit reports for both single audits of participants' systems and any award-specific audits that may be needed, as discussed in §§ 603.1115 and 603.1120.

(f) Responding, after coordination with program officials and intellectual property counsel, to recipient requests for permission to assign or license intellectual property to entities that do

not agree to manufacture substantially in the United States, as described in § 603.875(b). Before granting approval for any technology, the contracting officer must secure assurance that any such assignment is consistent with license rights for Government use of the technology, and that other conditions for any such transfer are met.

§ 603.1105 Advance payments or payable milestones.

The contracting officer must:

(a) For any expenditure-based TIA with advance payments or payable milestones, forward to the responsible payment office any interest that the recipient remits in accordance with § 603.820(b). The payment office will return the amounts to the Department of the Treasury's miscellaneous receipts account.

(b) For any expenditure-based TIA with advance payments, consult with the program official and consider whether program progress reported in periodic reports, in relation to reported expenditures, is sufficient to justify the continued authorization of advance payments under § 603.805(b).

(c) For any expenditure-based TIA using milestone payments, work with the program official at the completion of each payable milestone or upon receipt of the next business status report to:

(1) Compare the total amount of project expenditures, as recorded in the payable milestone report or business status report, with the projected budget for completing the milestone; and

(2) Adjust future payable milestones, as needed, if expenditures lag substantially behind what was originally projected and the contracting officer judges that the recipient is receiving Federal funds sooner than necessary for program purposes. Before making adjustments, the contracting officer should consider how large a deviation is acceptable at the time of the milestone. For example, suppose that the first milestone payment for a TIA is $50,000, and that the awarding official set the amount based on a projection that the recipient would have to expend $100,000 to reach the milestone (i.e., the original plan was for the recipient's share at that milestone to be 50% of project expenditures). If the milestone payment report shows $90,000 in expenditures, the recipient's share at this point is 44% ($40,000 out of the total $90,000 expended, with the balance provided by the $50,000 milestone payment of Federal funds). For this example, the contracting officer should adjust future milestones if a 6% difference in the recipient's share at the first milestone is judged to be too large, but not otherwise. Remember that milestone payment amounts are not meant to track expenditures precisely at each milestone and that a recipient's share will increase as it continues to perform RD&D and expend funds, until it completes another milestone to trigger the next Federal payment.

§ 603.1110 Other payment responsibilities.

Regardless of the payment method, the contracting officer should ensure that:

(a) The request complies with the award terms;

(b) Available funds are adequate to pay the request;

(c) The recipient will not have excess cash on hand, based on expenditure patterns; and

(d) Payments are not withheld, except in one of the circumstances described in 10 CFR 600.312(g).

§ 603.1115 Single audits.

For audits of for-profit participant's systems, under §§ 603.640 through 603.660, the contracting officer is the focal point for ensuring that participants submit audit reports and for resolving any findings in those reports. The contracting officer's responsibilities regarding single audits of nonprofit participant's systems are identified in the DOE ''Guide to Financial Assistance.''

§ 603.1120 Award-specific audits.

Guidance on when and how the contracting officer should request additional audits for an expenditure-based TIA is identical to the guidance in 10 CFR 600.316(d). If the contracting officer requires an award-specific examination or audit of a for-profit participant's records related to a TIA, the contracting officer must use the auditor specified in the award terms and conditions, which should be the same auditor who performs periodic audits of the participant.

Subpart J—Definitions of Terms Used in This Part

The terms defined in 10 CFR 600.3 apply to all DOE financial assistance, including a TIA. In addition to those terms, the following terms are used in this part.

§ 603.1205 Advance.

A payment made to a recipient before the recipient disburses the funds for program purposes. Advance payments may be based upon a recipient's request or a predetermined payment schedule.

§ 603.1210 Articles of collaboration.

An agreement among the participants in a consortium that is not formally incorporated as a legal entity, by which they establish their relative rights and responsibilities (see § 603.515).

§ 603.1215 Assistance.

The transfer of a thing of value to a recipient to carry out a public purpose of support or stimulation authorized by a law of the United States (see 31 U.S.C. 6101(3)). Grants, cooperative agreements, and technology investment agreements are examples of legal instruments used to provide assistance.

§ 603.1220 Award-specific audit.

An audit of a single TIA, usually done at the cognizant contracting officer's request, to help resolve issues that arise during or after the performance of the RD&D project. An award-specific audit of an individual award differs from a periodic audit of a participant (as defined in § 603.1295).

§ 603.1225 Cash contributions.

A recipient's cash expenditures made as contributions toward cost sharing, including expenditures of money that third parties contributed to the recipient.

§ 603.1230 Commercial firm.

A for-profit firm or segment of a for-profit firm (e.g., a division or other business unit) that does a substantial portion of its business in the commercial marketplace.

§ 603.1235 Consortium.

A group of RD&D-performing organizations that either is formally incorporated or that otherwise agrees to jointly carry out a RD&D project (see definition of ''articles of collaboration,'' in § 603.1210).

§ 603.1240 Cooperative agreement.

A legal instrument which, consistent with 31 U.S.C. 6305, is used to enter into the same kind of relationship as a grant (see definition of ''grant,'' in § 603.1270), except that substantial involvement is expected between the DOE and the recipient when carrying out the activity contemplated by the cooperative agreement. The term does not include ''cooperative research and development agreements'' as defined in 15 U.S.C. 3710a.

§ 603.1245 Cost sharing.

A portion of project costs from non-Federal sources that are borne by the recipient or non-Federal third parties on behalf of the recipient, rather than by the Federal Government.

§ 603.1250 Data.

Recorded information, regardless of form or the media on which it may be

recorded. The term includes technical data and computer software. It does not include information incidental to administration, such as financial, administrative, cost or pricing, or other management information related to the administration of a TIA.

§ 603.1255 Equipment.

Tangible property, other than real property, that has a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

§ 603.1260 Expenditure-based award.

A Federal Government assistance award for which the amounts of interim payments or the total amount ultimately paid (i.e., the sum of interim payments and final payment) are subject to redetermination or adjustment, based on the amounts expended by the recipient in carrying out the purposes for which the award was made, as long as the redetermination or adjustment does not exceed the total Government funds obligated to the award. Most Federal Government grants and cooperative agreements are expenditure-based awards.

§ 603.1265 Expenditures or outlays.

Charges made to the project or program. They may be reported either on a cash or accrual basis, as shown in the following table:

If reports are prepared on a . . .	Expenditures are the sum of . . .
(a) Cash basis	(1) Cash disbursements for direct charges for goods and services; (2) The amount of indirect expense charged; (3) The value of third party in-kind contributions applied; and (4) The amount of cash advances and payments made to any other organizations for the performance of a part of the RD&D effort.
(b) Accrual basis	(1) Cash disbursements for direct charges for goods and services; (2) The amount of indirect expense incurred; (3) The value of in-kind contributions applied; and (4) The net increase (or decrease) in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, and other payees and other amounts becoming owed under programs for which no current services or performance are required.

§ 603.1270 Grant.

A legal instrument which, consistent with 31 U.S.C. 6304, is used to enter into a relationship:

(a) The principal purpose of which is to transfer a thing of value to the recipient to carry out a public purpose of support or stimulation authorized by a law of the United States, rather than to acquire property or services for the Department of Energy's direct benefit or use.

(b) In which substantial involvement is not expected between the DOE and the recipient when carrying out the activity contemplated by the grant.

§ 603.1275 In-kind contributions.

The value of non-cash contributions made by a recipient or non-Federal third parties toward cost sharing.

§ 603.1280 Institution of higher education.

An educational institution that:

(a) Meets the criteria in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001); and

(b) Is subject to the provisions of OMB Circular A–110, ''Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,'' as implemented by the Department of Energy at 10 CFR 600, Subpart B.

§ 603.1285 Intellectual property.

Patents, trademarks, copyrights, mask works, protected data, and other forms of comparable property protected by Federal law and foreign counterparts.

§ 603.1290 Participant.

A consortium member or, in the case of an agreement with a single for-profit entity, the recipient. Note that a for-profit participant may be a firm or a segment of a firm (e.g., a division or other business unit).

§ 603.1295 Periodic audit.

An audit of a participant, performed at an agreed-upon time (usually a regular time interval), to determine whether the participant as a whole is managing its Federal awards in compliance with the terms of those awards. Appendix A to this part describes what such an audit may cover. A periodic audit of a participant differs from an award-specific audit of an individual award (as defined in § 603.1220).

§ 603.1300 Procurement contract.

A federal government procurement contract. It is a legal instrument which, consistent with 31 U.S.C. 6303, reflects a relationship between the Federal Government and a State, a local government, or other non-government entity when the principal purpose of the instrument is to acquire property or services for the direct benefit or use of the Federal Government. See the more detailed definition of the term ''contract'' at 48 CFR 2.101.

§ 603.1305 Program income.

Gross income earned by the recipient or a participant that is generated by a supported activity or earned as a direct result of a TIA. Program income includes but is not limited to: income from fees for performing services; the use or rental of real property, equipment, or supplies acquired under a TIA; the sale of commodities or items fabricated under a TIA; and license fees and royalties on patents and copyrights. Interest earned on advances of Federal funds is not program income.

§ 603.1310 Program official.

A federal government program manager, project officer, scientific officer, or other individual who is responsible for managing the technical program being carried out through the use of a TIA.

§ 603.1315 Property.

Real property, equipment, supplies, and intellectual property, unless stated otherwise.

§ 603.1320 Real property.

Land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

§ 603.1325 Recipient.

An organization or other entity that receives a TIA from DOE. Note that a for-profit recipient may be a firm or a segment of a firm (e.g., a division or other business unit).

§ 603.1330 Supplies.

Tangible property other than real property and equipment. Supplies have a useful life of less than one year or an acquisition cost of less than $5,000 per unit.

§ 603.1335 Termination.

The cancellation of a TIA, in whole or in part, at any time prior to either:

(a) The date on which all work under the TIA is completed; or

(b) The date on which Federal sponsorship ends, as given in the award document or any supplement or amendment thereto.

§ 603.1340 Technology investment agreement.

A TIA is a special type of assistance instrument used to increase involvement of commercial firms in the DOE research, development and demonstration (RD&D) programs. A TIA, like a cooperative agreement, requires substantial Federal involvement in the technical or management aspects of the project. A TIA may be either a type of cooperative agreement or a type of assistance transaction other than a cooperative agreement, depending on the intellectual property provisions. A TIA is either:

(a) A type of cooperative agreement with more flexible provisions tailored for involving commercial firms (as distinct from a cooperative agreement subject to all of the requirements in 10 CFR part 600), but with intellectual property provisions in full compliance with the DOE intellectual property statutes (i.e., Bayh-Dole statute and 42 U.S.C. sections 2182 and 5908, as implemented in 10 CFR 600.325); or

(b) An assistance transaction other than a cooperative agreement, if its intellectual property provisions vary from the Bayh-Dole statute and 42 U.S.C. sections 2182 and 5908, which require the Government to retain certain intellectual property rights, and require differing treatment between large businesses and nonprofit organizations or small businesses.

Appendix A to Part 603—Applicable Federal Statutes, Executive Orders, and Government-Wide Regulations

Whether the TIA is a cooperative agreement or a type of assistance transaction other than a cooperative agreement, the terms and conditions of the agreement must provide for recipients' compliance with applicable Federal statutes, Executive Orders and Government-wide regulations. This appendix lists some of the more common requirements to aid in identifying ones that apply to a specific TIA. The list is not intended to be all-inclusive, however; the contracting officer may need to consult legal counsel to verify whether there are others that apply (*e.g.*, due to a provision in the appropriations act for the specific funds in use or due to a statute or rule that applies to a particular program or type of activity).

A. Certifications

All financial assistance applicants, including applicants requesting a TIA must comply with the prohibitions concerning lobbying in a Government-wide common rule that the DOE has codified at 10 CFR part 601. The ''List of Certifications and Assurances for SF 424(R&R)'' on the DOE Applicant and Recipient page at *http://grants.pr.doe.gov* includes the Government-wide certification that must be provided with a proposal for a financial assistance award, including a TIA.

B. Assurances That Apply to a TIA

Currently the DOE approach to communicating Federal statutes, Executive Orders and Government-wide regulations is to provide potential applicants a list of ''National Policies Assurances to be Incorporated as Award Terms'' in the program announcement (This list is available on the Applicant and Recipient Page at *http://grants.pr.doe.gov* under Award Terms). The contracting officer should follow this approach for announcements that allow for the award of a TIA. The contracting officer should normally incorporate by reference or attach the list of national policy assurances to a TIA award. Of these requirements, the following four assurances apply to all TIA:

1. Prohibitions on discrimination on the basis of race, color, or national origin in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*) as implemented by DOE regulations at 10 CFR part 1040. These apply to all financial assistance. They require recipients to flow down the prohibitions to any subrecipients performing a part of the substantive RD&D program (as opposed to suppliers from whom recipients purchase goods or services).

2. Prohibitions on discrimination on the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, *et seq.*) as implemented by DOE regulations at 10 CFR part 1040. They apply to all financial assistance and require flow down to subrecipients.

3. Prohibitions on discrimination on the basis of handicap, in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) as implemented by DOE regulations at 10 CFR part 1041. They apply to all financial assistance and require flow down to subrecipients.

4. Preferences for use of U.S.-flag air carriers in the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), which apply to uses of U.S. Government funds.

C. Other Assurances

Additional assurance requirements may apply in certain circumstances, as follows:

1. If construction work is to be done under a TIA or its subawards, it is subject to the prohibitions in Executive Order 11246 on discrimination on the basis of race, color, religion, sex, or national origin.

2. If the RD&D involves human subjects or animals, it is subject to the requirements codified by the Department of Health and Human Services at 45 CFR part 46 and implemented by DOE at 10 CFR part 745 and rules on animal acquisition, transport, care, handling and use in 9 CFR parts 1 through 4, Department of Agriculture rules and rules of the Department of Interior at 50 CFR parts 10 through 24 and Commerce at 50 CFR parts 217 through 277, respectively. See item a. or b., respectively, under the heading ''Live organisms'' included on the DOE ''National Policy Assurances to Be Incorporated As Award Terms'' on the Applicant and Recipient Page.

3. If the RD&D involves actions that may affect the environment, it is subject to the National Environmental Policy Act, and may also be to subject to nation policy requirements for flood-prone areas, coastal zones, coastal barriers, wild and scenic rivers, and underground sources of drinking water.

4. If the project may impact a historic property, it is subject to the National Historic Preservation Act of 1966 (16 U.S.C. 470, *et seq.*).

Appendix B to Part 603—Flow Down Requirements for Purchases of Goods and Services

A. As discussed in § 603.705, the contracting officer must inform recipients of any requirements that flow down to their purchases of goods or services (e.g., supplies or equipment) under their TIA. Note that purchases of goods or services differ from subawards, which are for substantive RD&D program performance.

B. Appendix A to 10 CFR part 600, subpart D lists eight requirements that commonly apply to firms' purchases under grants or cooperative agreements. Of those eight, two that apply to all recipients' purchases under a TIA are:

1. *Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).* A contractor submitting a bid to the recipient for a contract award of $100,000 or more must file a certification with the recipient that it has not and will not use Federal appropriations for certain lobbying purposes. The contractor also must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. For further details, see 10 CFR part 601, the DOE's codification of the Government-wide common rule implementing this amendment.

2. *Debarment and suspension.* Recipients may not make contract awards that exceed the simplified acquisition threshold (currently $100,000) and certain other contract awards may not be made to parties listed on the General Services Administration (GSA) ''List of Parties Excluded from Federal Procurement and Nonprocurement Programs. The GSA list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and parties declared ineligible under statutory or regulatory authority other than Executive Orders 12549 (3 CFR, 1986 Comp., p. 189) and 12689 (3 CFR, 1989 Comp., p. 235). For further details, see subparts A through E of 10 CFR part 606, which is the DOE's codification of the

Government-wide common rule implementing Executive Orders 12549 and 12689.

C. One other requirement applies only in cases where construction work is to be performed under the TIA with Federal funds or recipient funds counted toward required cost sharing:

1. *Equal Employment Opportunity.* If the TIA includes construction work, the contracting officer should inform the recipient that Department of Labor regulations at 41 CFR 60–1.4(b) prescribe a clause that must be incorporated into construction awards and subawards. Further details are provided in Appendix B to 10 CFR part 600 subpart D, item 1.

[FR Doc. 05–22475 Filed 11–14–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30464; Amdt. No. 3140]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 15, 2005. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2005.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169; or

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase

Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on November 4, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

** * * Effective 22 Dec 2005*

Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 14, Orig
Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 26, Amdt 1
Cold Bay, AK, Cold Bay, RNAV (GPS) RWY 32, Orig
Cold Bay, AK, Cold Bay, ILS OR LOC/DME RWY 14, Amdt 17
Cold Bay, AK, Cold Bay, LOC/DME BC RWY 32, Amdt 8
Cold Bay, AK, Cold Bay, VOR RWY 14, Amdt 14
Cold Bay, AK, Cold Bay, VOR/DME OR TACAN–A, Amdt 3
Cold Bay, AK, Cold Bay, GPS RWY 14, Orig, CANCELLED
Cold Bay, AK, Cold Bay, GPS RWY 32, Orig-A, CANCELLED
Deering, AK, Deering, RNAV (GPS) RWY 2, Orig
Deering, AK, Deering, RNAV (GPS) RWY 11, Orig
Deering, AK, Deering, RNAV (GPS) RWY 20, Orig
Deering, AK, Deering, RNAV (GPS) RWY 29, Orig
Deering, AK, Deering, Takeoff Minimums and Textual DP, Orig
Oakdale, CA, Oakdale, VOR RWY 10, Amdt 5C, CANCELLED
Ontario, CA, Ontario Intl, RNAV (GPS) RWY 8R, Amdt 1
Palm Springs, CA, Palm Springs International, RNAV (RNP) Y RWY 31L, Orig
Palm Springs, CA, Palm Springs International, RNAV (RNP) Y RWY 13R, Orig
San Francisco, CA, San Francisco Intl, RNAV (RNP) Y RWY 28R, Orig-A
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 9L, Amdt 7
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, ILS OR LOC RWY 26L, Amdt 18
Atlanta, GA, Hartsfield-Jackson Atlanta Intl, Takeoff Minimums and Textual DP, Amdt 1
Dalton, GA, Dalton Muni, ILS OR LOC RWY 14, Orig
Dalton, GA, Dalton Muni, LOC RWY 14, Orig, CANCELLED
Macon, GA, Middle Georgia Regional, RNAV (GPS) RWY 5, Orig
Macon, GA, Middle Georgia Regional, RNAV (GPS) RWY 13, Orig
Macon, GA, Middle Georgia Regional, RNAV (GPS) RWY 23, Orig
Macon, GA, Middle Georgia Regional, RNAV (GPS) RWY 31, Orig
Macon, GA, Middle Georgia Regional, ILS OR LOC/DME RWY 5, Orig
Macon, GA, Middle Georgia Regional, ILS RWY 5, Amdt 25, CANCELLED
Macon, GA, Middle Georgia Regional, GPS RWY 5, Orig, CANCELLED
Macon, GA, Middle Georgia Regional, GPS RWY 13, Orig, CANCELLED
Macon, GA, Middle Georgia Regional, GPS RWY 23, Orig, CANCELLED
Macon, GA, Middle Georgia Regional, GPS RWY 31, Orig, CANCELLED
Macon, GA, Middle Georgia Regional, VOR RWY 13, Amdt 9
Macon, GA, Middle Georgia Regional, Takeoff Minimums and Textual DP, Amdt 2
Statesboro, GA, Statesboro-Bulloch County, ILS OR LOC RWY 32, Amdt 2
Statesboro, GA, Statesboro-Bulloch County, RNAV (GPS) RWY 32, Amdt 2
Covington, KY, Cincinnati/Northern Kentucky International, RNAV (GPS) RWY 18R, Orig
Covington, KY, Cincinnati/Northern Kentucky International, RNAV (GPS) RWY 36L, Orig
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 18C, Amdt 21
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 18L, Amdt 6
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 18R, ILS RWY 18R (CAT II), Orig
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 36C, ILS RWY 36C (CAT II), ILS RWY 36C (CAT III), Amdt 40
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 36L, ILS RWY 36L (CAT II), Orig
Covington, KY, Cincinnati/Northern Kentucky International, ILS OR LOC RWY 36R, ILS RWY 36R (CAT II), ILS RWY 36R (CAT III), Amdt 7
Marion, KY, Marion-Crittenden County, RNAV (GPS) RWY 7, Orig
Marion, KY, Marion-Crittenden County, RNAV (GPS) RWY 25, Orig
Marion, KY, Marion-Crittenden County, Takeoff Minimums and Textual DP, Orig
Gonzales, LA, Louisiana Regional, RNAV (GPS) RWY 17, Orig
Gonzales, LA, Louisiana Regional, RNAV (GPS) RWY 35, Orig
Gonzales, LA, Louisiana Regional, VOR/DME–A, Amdt 2
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, ILS OR LOC RWY 24, Amdt 17
Worcester, MA, Worcester Regional, NDB RWY 11, Amdt 21
Worcester, MA, Worcester Regional, ILS OR LOC RWY 11, Amdt 22
Worcester, MA, Worcester Regional, ILS OR LOC RWY 29, Amdt 3
Worcester, MA, Worcester Regional, RNAV (GPS) RWY 11, Orig
Worcester, MA, Worcester Regional, RNAV (GPS) RWY 29, Orig
Worcester, MA, Worcester Regional, GPS RWY 29, Orig, CANCELLED
Portland, ME, Portland Intl Jetport, ILS OR LOC RWY 29, Amdt 2
Portland, ME, Portland Intl Jetport, RNAV (GPS) RWY 11, Amdt 2
Portland, ME, Portland Intl Jetport, RNAV (GPS) RWY 29, Amdt 1
Benson, MN, Benson Muni, NDB RWY 14, Amdt 7
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 2, Amdt 1
Columbia, MO, Columbia Regional, RNAV (GPS) RWY 20, Amdt 1
Marshall, MO, Marshall Meml Muni, RNAV (GPS) RWY 18, Amdt 1
Marshall, MO, Marshall Meml Muni, RNAV (GPS) RWY 36, Amdt 1
Marshall, MO, Marshall Meml Muni, NDB RWY 36, Amdt 2
Marshall, MO, Marshall Meml Muni, Takeoff Minimums and Textual DP's, Orig
Greenwood, MS, Greenwood-LeFlore, RNAV (GPS) RWY 5, Orig
Greenwood, MS, Greenwood-LeFlore, RNAV (GPS) RWY 18, Amdt 1
Greenwood, MS, Greenwood-LeFlore, RNAV (GPS) RWY 36, Orig
Greenwood, MS, Greenwood-LeFlore, ILS OR LOC RWY 18, Amdt 6
Greenwood, MS, Greenwood-LeFlore, VOR RWY 5, Amdt 11
Greenwood, MS, Greenwood-LeFlore, GPS RWY 36, Orig, CANCELLED
Greenwood, MS, Greenwood-LeFlore, GPS RWY 5, Orig, CANCELLED
Greenwood, MS, Greenwood-LeFlore, VOR/DME RNAV RWY 36, Amdt 3A

Greenwood, MS, Greenwood-LeFlore, VOR/DME RNAV RWY 18, Amdt 6A
Wahpeton, ND, Harry Stern, RNAV (GPS) RWY 15, Orig
Wahpeton, ND, Harry Stern, RNAV (GPS) RWY 33, Orig
Wahpeton, ND, Harry Stern, NDB RWY 33, Amdt 5
Wahpeton, ND, Harry Stern, GPS RWY 33, Orig-A, CANCELLED
Grand Island, NE, Central Nebraska Regional, RNAV (GPS) RWY 13, Amdt 1
Grand Island, NE, Central Nebraska Regional, RNAV (GPS) RWY 17, Amdt1
Grand Island, NE, Central Nebraska Regional, RNAV (GPS) RWY 31, Amdt1
Grand Island, NE, Central Nebraska Regional, RNAV (GPS) RWY 35, Amdt1
Hobbs, NM, Lea County Rgnl, RNAV (GPS) RWY 3, Orig
Hobbs, NM, Lea County Rgnl RNAV (GPS) RWY 21, Orig
Hobbs, NM, Lea County Rgnl RNAV (GPS) RWY 30, Orig
Hobbs, NM, Lea County Rgnl ILS OR LOC RWY 3, Amdt 6
Hobbs, NM, Lea County Rgnl LOC/DME BC RWY 21, Amdt 6
Hobbs, NM, Lea County Rgnl VOR/DME OR TACAN RWY 21, Amdt 9
Hobbs, NM, Lea County Rgnl VOR OR TACAN RWY 3, Amdt 21
Hobbs, NM, Lea County Rgnl GPS RWY 3, Orig-B, CANCELLED
Hobbs, NM, Lea County Rgnl GPS RWY 21, Orig-B, CANCELLED
Hobbs, NM, Lea County Rgnl GPS RWY 30, Orig-B, CANCELLED
Las Vegas, NV, Henderson Executive, VOR–C, Orig
Las Vegas, NV, North Las Vegas, ILS OR LOC RWY 12L, Orig
Fort Worth, TX, Fort Worth Spinks, RNAV (GPS) RWY 17R, Orig
Fort Worth, TX, Fort Worth Spinks, RNAV (GPS) RWY 35L, Orig
Fort Worth, TX, Fort Worth Spinks, VOR/DME RNAV RWY 35L, Orig-B, CANCELLED
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) Z RWY 8L, Amdt 1
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) Z RWY 9, Amdt 2
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) Z RWY 27, Amdt 1
Houston, TX, George Bush Intercontinental/Houston, RNAV (GPS) Z RWY 26R, Amdt 1
Houston, TX, George Bush Intercontinental/Houston, ILS OR LOC RWY 8L, ILS RWY 8L, (CAT II), ILS RWY 8L (CAT III), Amdt 1
Houston, TX, George Bush Intercontinental/Houston, ILS OR LOC RWY 9, Amdt 7
Houston, TX, George Bush Intercontinental/Houston, ILS OR LOC RWY 27, ILS RWY 27, (CAT II), ILS RWY 27 (CAT III), Amdt 6
Houston, TX, George Bush Intercontinental/Houston, ILS OR LOC RWY 26R, ILS RWY 26R, (CAT II), ILS RWY 26R (CAT III), Amdt 1
Longview, TX, East Texas Regional, ILS OR LOC RWY 13, Amdt 12
Longview, TX, East Texas Regional, VOR/DME OR TACAN RWY 31, Amdt 7
Longview, TX, East Texas Regional, VOR/DME OR TACAN RWY 13, Amdt 1
Wichita Falls, TX, Kickapoo Downtown Airpark, RNAV (GPS) RWY 35, Orig
Wichita Falls, TX, Kickapoo Downtown Airpark, NDB RWY 35, Amdt 4
Wichita Falls, TX, Kickapoo Downtown Airpark, NDB–A, Amdt 6A
Wichita Falls, TX, Kickapoo Downtown Airpark, VOR/DME RNAV OR GPS RWY 35, Amdt 3A, CANCELLED
Sutton, WV, Braxton County, RNAV (GPS) RWY 1, Orig
Sutton, WV, Braxton County, RNAV (GPS) RWY 19, Orig
Sutton, WV, Braxton County, Takeoff Minimums and Textual DP, Orig

[FR Doc. 05–22494 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30465; Amdt. No. 3141]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 15, 2005. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 15, 2005.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modifiedby the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by

publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC/P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on November 4, 2005.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

FDC Date	State	City	Airport	FDC No.	Subject No.
10/21/05	AK	IGIUGIG	IGIUGIG	5/9658	RNAV (GPS) RWY 5, ORIG-A.
10/21/05	AK	IGIUGIG	IGIUGIG	5/9659	RNAV (GPS) RWY 23, ORIG-A.
10/21/05	AK	KING SALMON	KING SALMON	5/9660	RNAV (GPS) Z RWY 29, ORIG-A.
10/21/05	AK	KING SALMON	KING SALMON	5/9661	RNAV (GPS) RWY 11, ORIG-A.
10/21/05	AK	SHUNGNAK	SHUNGNAK	5/9662	RNAV (GPS) RWY 9, ORIG-A.
10/24/05	WA	BELLINGHAM	BELLINGHAM INTL	5/9652	ILS RWY 16, AMDT 4B.
10/24/05	WA	BELLINGHAM	BELLINGHAM INTL	5/9653	NDB RWY 16, AMDT 1B.
10/25/05	MN	MINNEAPOLIS	MINNEAPOLIS-ST. PAUL INTL/WOLD CHAMBERLAIN.	5/9764	ILS PRM RWY 12R, AMDT 3A.
10/26/05	IL	QUINCY	QUNICY REGIONAL-BALDWIN FIELD	5/9835	ILS OR LOC RWY 4, AMDT 17A.
10/28/05	MN	MINNEAPOLIS	MINNEAPOLIS-ST. PAUL INTL/WOLD CHAMBERLAIN.	5/9978	ILS PRM RWY 30R, AMDT 6B.
10/28/05	MN	MINNEAPOLIS	MINNEAPOLIS-ST. PAUL INTL/WOLD CHAMBERLAIN.	5/9979	ILS PRM RWY 30L, AMDT 5B.
10/31/05	FL	BUNNELL	FLAGLER COUNTY	5/9990	RNAV (GPS) RWY 29, ORIG-A.
10/31/05	IL	CHICAGO	CHICAGO-O'HARE INTL	5/0115	ILS RWY 27L (CATII), AMDT 13A.
10/31/05	IL	CHICAGO	CHICAGO-O'HARE INTL	5/0116	ILS RWY 27L (CATIII), AMDT 13A.
10/31/05	IL	CHICAGO	CHICAGO-O'HARE INTL	5/0117	ILS OR LOC RWY 27L, AMDT 13A.
10/28/05	FL	MELBOURNE	MELBOURNE INTL	5/0032	RNAV (GPS) RWY 9R, ORIG-A.
10/28/05	FL	BUNNELL	FLAGLER COUNTY	5/9988	VOR-A, AMDT 1A.
10/28/05	FL	BUNNELL	FLAGLER COUNTY	5/9989	RNAV (GPS) RWY 6, ORIG-A.
10/28/05	FL	BUNNELL	FLAGLER COUNTY	5/9991	RNAV (GPS) RWY 11, ORIG-A.
10/28/05	FL	BUNNELL	FLAGLER COUNTY	5/9992	RNAV (GPS) RWY 24, ORIG-A.
10/28/05	FL	ORLANDO	ORLANDO INTL	5/9993	RNAV (GPS) RWY 36R, ORIG-B.
10/24/05	UT	LOGAN	LOGAN-CACHE	5/9717	RNAV (GPS) RWY 17, ORIG-A.
10/24/05	UT	LOGAN	LOGAN-CACHE	5/9720	RNAV (GPS) RWY 35, AMDT 1A.
10/31/05	UT	OGDEN	ODGEN-HINCKLEY	5/9940	VOR RWY 7, AMDT 5C.
10/28/05	WA	SEATTLE	SEATTLE-TACOMA INTL	5/0133	VOR RWY 34L/R, AMDT 9B.
10/28/05	WA	MOSES LAKE	GRANT COUNTY INTL	5/0136	VOR RWY 32R, AMDT 20A.
10/28/05	WA	MOSES LAKE	GRANT COUNTY INTL	5/0138	RNAV (GPS) RWY 32R, ORIG-B.

FDC Date	State	City	Airport	FDC No.	Subject No.
11/01/05	OH	MARYSVILLE	UNION COUNTY	5/0174	NDB RWY 27, AMDT 5B.
11/01/05	WA	YAKIMA	YAKIMA AIR TERMINAL/MCALLISTER FIELD.	5/0181	ILS RWY 27, AMDT 26C.
11/01/05	WA	PORT ANGELES ...	WILLIAM R. FAIRCHILD INTL	5/0187	ILS–1 RWY 8, AMDT 1C.
11/02/05	MN	ALEXANDRIA	CHANDLER FIELD	5/0218	ILS OR LOC RWY 31, ORIG-A.
10/27/05	TX	AUSTIN	AUSTIN-BERGSTROM INTL	5/9947	ILS OR LOC RWY 35L, AMDT 3A.
11/02/05	OK	ARDMORE	ARDMORE MUNI	5/0226	ILS RWY 31, AMDT 4A.
11/02/05	SC	MYRTLE BEACH ...	MYRTLE BEACH INTL	5/0232	ILS OR LOC RWY 36, AMDT 1C.
11/02/05	SC	MYRTLE BEACH ...	MYRTLE BEACH INTL	5/0233	RNAV (GPS) RWY 36, AMDT 1A.
11/02/05	SC	MYRTLE BEACH ...	MYRTLE BEACH INTL	5/0234	RADAR–1, AMDT 1C.
11/02/05	SC	MYRTLE BEACH ...	MYRTLE BEACH INTL	5/0235	ILS OR LOC RWY 18, AMDT 1F.
11/02/05	SC	MYRTLE BEACH ...	MYRTLE BEACH INTL	5/0236	RNAV (GPS) RWY 18, 1C.

[FR Doc. 05–22493 Filed 11–14–05; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 25

[Docket No. 2004N–0461]

Environmental Assessment; Categorical Exclusions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulation on environmental impact considerations to expand existing categorical exclusions to include approvals of humanitarian device exemptions (HDEs) and establishment of special controls as categories of actions that do not individually or cumulatively have a significant effect on the human environment and for which neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required. FDA is taking this action in accordance with the National Environmental Policy Act (NEPA).

DATES: This rule is effective December 15, 2005.

FOR FURTHER INFORMATION CONTACT: Rosa M. Gilmore, Center for Devices and Radiological Health (HFZ–215), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 240–276–2346.

SUPPLEMENTARY INFORMATION:

I. Introduction

In the **Federal Register** of November 24, 2004 (69 FR 68280), FDA published a proposed rule (the November 2004 proposed rule) to amend its regulation on environmental impact considerations to expand existing categorical exclusions to include approvals of HDEs and establishment of special controls as categories of actions that do not individually or cumulatively have a significant effect on the human environment and for which neither an EA nor an EIS is required. Interested persons were given until December 27, 2004, to comment on the proposal. FDA received two comments on the proposed rule.

II. Summary of Comments and FDA's Response

(Comment 1) One comment opposed FDA's proposal to expand existing categorical exclusions to include approvals of HDEs and establishment of special controls on the basis that a more rigorous standard should be applied before approval of ''dangerous devices.''

(Response) This comment seemed to misunderstand the proposed rule. FDA is not excluding any products from the statutorily required safety review under the Federal Food, Drug, and Cosmetic Act. The rule excludes certain categories of actions from the need to prepare an EA or EIS under the NEPA.

(Comment 2) This comment did not express an opinion on the proposed rule.

III. Background and Regulatory Authorities

NEPA requires all Federal agencies to assess the environmental impacts of its actions and to ensure that the interested and affected public is informed of environmental analyses. The Counsel on Environmental Quality (CEQ) is responsible for overseeing Federal efforts to comply with NEPA. Both CEQ and FDA have issued regulations governing agency obligations and responsibilities under NEPA. CEQ's regulations implementing the procedural requirements of NEPA can be found at 40 CFR parts 1500 through 1508 and FDA's NEPA policies and procedures can be found at 21 CFR part 25.

CEQ's and FDA's regulations, 40 CFR 1508.4 and 21 CFR 25.5(a)(1), respectively, define ''categorical exclusion'' to mean a category of actions which have been found by procedures adopted by the Federal agency not to individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an EA nor an EIS is required. When categorically excluding an action, an agency must determine that there are no extraordinary circumstances related to the action that may result in the action having significant environmental effects.

FDA published final regulations governing compliance with NEPA as implemented by the CEQ regulations in the **Federal Register** of July 29, 1997 (62 FR 40570). The July 29, 1997, final rule listed certain device actions as categories of actions that do not individually or cumulatively have a significant effect on the human environment and for which neither an EA nor an EIS is required.

IV. Summary of the Final Rule

FDA received two comments on the proposed rule, however, neither comment related to the statutory and regulatory authority of that proposal. Therefore, the discussion of the statutory and regulatory authority set out in the preamble of the proposed rule (69 FR 68280 at 68281 through 68282) remains relevant to this final rule and will not be repeated here.

A. Special Controls

FDA is amending its environmental impact regulations under § 25.34 to include as a category of action that does not individually or cumulatively have a significant effect on the human environment and for which neither an EA nor EIS is required, classification or reclassification of a device, including the establishment of special controls, if the action will not result in increases in the existing levels of use of the device or changes in the intended use of the device or its substitutes. FDA issues special controls in order to assure that class II devices provide a reasonable assurance of safety and effectiveness.

Under these conditions, FDA believes that it is appropriate to categorically exclude the establishment of a special control from the requirement to prepare an EA or EIS.

B. HDE

FDA is amending § 25.34 to include approval of an HDE as a category of action that does not individually or cumulatively have a significant effect on the human environment and for which neither an EA nor EIS is required. Because humanitarian use devices are limited by definition to use for treating or diagnosing diseases or conditions affecting fewer than 4,000 individuals in the United States per year, any environmental impact associated with use of a humanitarian use device is very limited. FDA approves few HDEs, further limiting any potential environmental impact. FDA's experience in reviewing HDEs has shown that no HDE reviewed thus far has had a significant environmental impact.

V. Environmental Impact

The agency has determined that under 21 CFR 24.30(h) this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is not a significant regulatory action under the Executive order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule provides for an exclusion from the requirement to prepare an EA or EIS and, as such, relieves a burden, the agency certifies that this final rule will not have a significant economic impact on substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before finalizing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $115 million, using the most current (2003) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

VII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

List of Subjects in 21 CFR Part 25

Environmental impact statements, Foreign relations, Reporting and recordkeeping requirements.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of the Food and Drug Administration, 21 CFR part 25 is amended as follows:

PART 25—ENVIRONMENTAL IMPACT CONSIDERATIONS

■ 1. The authority citation for 21 CFR part 25 continues to read as follows:

Authority: 21 U.S.C. 321–393; 42 U.S.C. 262, 263b–264; 42 U.S.C. 4321, 4332; 40 CFR parts 1500–1508; E.O. 11514, 35 FR 4247, 3 CFR, 1971 Comp., p. 531–533 as amended by E.O. 11991, 42 FR 26967, 3 CFR, 1978 Comp., p. 123–124 and E.O. 12114, 44 FR 1957, 3 CFR, 1980 Comp., p. 356–360.

■ 2. Section 25.34 is amended by revising paragraph (b) and adding paragraph (i) to read as follows:

§ 25.34 Devices and electronic products.

* * * * *

(b) Classification or reclassification of a device under part 860 of this chapter, including the establishment of special controls, if the action will not result in increases in the existing levels of use of the device or changes in the intended use of the device or its substitutes.

* * * * *

(i) Approval of humanitarian device exemption under subpart H of part 814 of this chapter.

Dated: October 14, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22563 Filed 11–14–05; 8:45 am]

BILLING CODE 4160–01–S

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in December 2005. Interest assumptions are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: Effective December 1, 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of

the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Three sets of interest assumptions are prescribed: (1) A set for the valuation of benefits for allocation purposes under section 4044 (found in Appendix B to Part 4044), (2) a set for the PBGC to use to determine whether a benefit is payable as a lump sum and to determine lump-sum amounts to be paid by the PBGC (found in Appendix B to Part 4022), and (3) a set for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology (found in Appendix C to Part 4022).

This amendment (1) Adds to Appendix B to Part 4044 the interest assumptions for valuing benefits for allocation purposes in plans with valuation dates during December 2005, (2) adds to Appendix B to Part 4022 the interest assumptions for the PBGC to use for its own lump-sum payments in plans with valuation dates during December 2005, and (3) adds to Appendix C to Part 4022 the interest assumptions for private-sector pension practitioners to refer to if they wish to use lump-sum interest rates determined using the PBGC's historical methodology for valuation dates during December 2005.

For valuation of benefits for allocation purposes, the interest assumptions that the PBGC will use (set forth in Appendix B to part 4044) will be 4.00 percent for the first 20 years following the valuation date and 4.75 percent thereafter. These interest assumptions represent an increase (from those in effect for November 2005) of 0.30 percent for the first 20 years following the valuation date and are otherwise unchanged.

The interest assumptions that the PBGC will use for its own lump-sum payments (set forth in Appendix B to part 4022) will be 2.75 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These interest assumptions represent an increase (from those in effect for November 2005) of 0.25 percent for the period during which a benefit is in pay status and are otherwise unchanged.

For private-sector payments, the interest assumptions (set forth in Appendix C to part 4022) will be the same as those used by the PBGC for determining and paying lump sums (set forth in Appendix B to part 4022).

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation and payment of benefits in plans with valuation dates during December 2005, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects

29 CFR Part 4022

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 4044

Employee benefit plans, Pension insurance, Pensions.

■ In consideration of the foregoing, 29 CFR parts 4022 and 4044 are amended as follows:

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4022 continues to read as follows:

Authority: 29 U.S.C. 1302, 1322, 1322b, 1341(c)(3)(D), and 1344.

■ 2. In appendix B to part 4022, Rate Set 146, as set forth below, is added to the table.

Appendix B to Part 4022—Lump Sum Interest Rates For PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
146	12–1–05	1–1–06	2.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 146, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates For Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*		*	*	*	*		*
146	12–1–05	1–1–06	2.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for December 2005, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t =	i_t	for t =
* * *		*		*		*
December 2005	.0400	1–20	.0475	>20	N/A	N/A

Issued in Washington, DC, on this 9th day of November 2005.

James J. Armbruster,

Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. 05–22604 Filed 11–14–05; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–05–126]

RIN 1625–AA08

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek and Severn River, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulations at 33 CFR 100.511 during the Eastport Yacht Club Lights Parade, a marine event to be held December 10, 2005, on the waters of Spa Creek and the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the event. The effect will be to restrict general navigation in the regulated area for the safety of event participants, spectators and vessels transiting the event area.

DATES: 33 CFR 100.511 will be enforced from 5:30 p.m. to 8:30 p.m. on December 10, 2005.

FOR FURTHER INFORMATION CONTACT: Ronald Houck, Marine Events Coordinator, Commander, Coast Guard Sector Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, and (410) 576–2674.

SUPPLEMENTARY INFORMATION: The Eastport Yacht Club will sponsor a lighted boat parade on the waters of Spa Creek and the Severn River at Annapolis, Maryland. The event will consist of approximately 50 boats traveling at slow speed along two separate parade routes in Annapolis Harbor. The participating boats will range in length from 10 to 60 feet, and each will be decorated with holiday lights. In order to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.511 will be enforced for the duration of the event. Under provisions of 33 CFR 100.511, vessels may not enter the regulated area without permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: November 2, 2005.

Larry L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 05–22574 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–05–123]

RIN 1625–AA87

Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone at the North Carolina State Port Authority (NCSPA), Wilmington to include the Cape Fear River and Eagle Island. Entry into or movement within the security zone will be prohibited without authorization from the Captain of the Port (COTP), Wilmingon, NC. This action is necessary to safeguard the vessels and the facility from sabotage, subversive acts, or other threats.

DATES: This rule is effective from October 1, 2005, until December 31, 2005.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD05–05–123 and are available for inspection or copying at the Marine Safety Unit 721 Medical Center Drive, Suite 100, Wilmington, North Carolina 28401 between 7:30 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Diego Benavides, Branch Chief, Port Safety and Security (910) 772–2200 or toll free (877) 229–0770.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. The Coast Guard is promulgating this security zone regulation to protect NCSPA Wilmington and the

surrounding vicinity from threats to national security. Accordingly, based on the military function exception set forth in the Administrative Procedure Act, 5 U.S.C. 553(a)(1), notice and comment rulemaking and advance publication are not required for this regulation.

Background and Purpose

Vessels frequenting the North Carolina State Port Authority (NCSPA) Wilmington facility serve as a vital link in the transportation of military munitions, explosives, equipment, and personnel in support of Department of Defense missions at home and abroad. This vital transportation link is potentially at risk to acts of terrorism, sabotage and other criminal acts. Munitions and explosives laden vessels also pose a unique threat to the safety and security of the NCSPA Wilmington, vessel crews, and others in the maritime and surrounding community should the vessels be subject to acts of terrorism or sabotage, or other criminal acts. The ability to control waterside access to vessels laden with munitions and explosives, as well as those used to transport military equipment and personnel, moored at the NCSPA Wilmington is critical to national defense and security, as well as to the safety and security of the NCSPA Wilmington, vessel crews, and others in the maritime and surrounding community. Therefore, the Coast Guard is establishing this security zone to safeguard human life, vessels and facilities from sabotage, terrorist acts or other criminal acts.

Discussion of Rule

The security zone is necessary to provide security for, and prevent acts of terrorism against vessels loading or offloading at the NCSPA Wilmington facility during a military operation. It will include an area from 800 yards south of the Cape Fear River Bridge encompassing the southern end of Eagle Island, the Cape Fear River, and the grounds of the State Port Authority Terminal south to South Wilmington Terminal. The security zone will prevent access to unauthorized persons who may attempt to enter the secure area via the Cape Fear River, the North Carolina State Port Authority terminal, or use Eagle Island as vantage point for surveillance of the secure area. The security zone will protect vessels moored at the facility, their crews, others in the maritime community and the surrounding communities from subversive or terrorist attack that could cause serious negative impact to vessels, the port, or the environment, and result in numerous casualties.

No person or vessel may enter or remain in the security zone at any time without the permission of the COTP, Wilmington NC. Each person or vessel operating within the security zone must obey any direction or order of the COTP. The COTP may take possession and control of any vessel in a security zone and/or remove any person, vessel, article or thing from this security zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

Although this regulation restricts access to the security zone, the effect of this regulation will not be significant because: (i) The COTP or his or her representative may authorize access to the security zone; (ii) the security zone will be enforced for limited duration; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Cape Fear River that is within the security zone.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the security zone will apply to the entire width of the river, traffic will be allowed to pass through the zone with the permission of the COTP or his or her designated representative. Before the effective period, we will issue maritime advisories widely available to users of the river.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–123 to read as follows: § 165.T05–123 Security Zone: Cape Fear River, Eagle Island and North Carolina State Port Authority Terminal, Wilmington, NC.

(a) *Location.* The following area is a security zone: The grounds of the North Carolina State Port Authority, Wilmington Terminal and the southern portion of Eagle Island; and an area encompassed from South Wilmington Terminal at 34°10′38.394″ N, 077°57′16.248″ W (Point 1); across Cape Fear River to Southern most entrance of Brunswick River on the West Bank at 34°10′38.052″ N, 077°57′43.143″ W (Point 2); extending along the West bank of the Brunswick River for approximately 750 yards to 34°10′57.062″ N, 077°58′01.342″ W (Point 3); proceeding North across the Brunswick River to the east bank at 34°11′04.846″ N, 077°58′02.861″ W (Point 4) and continuing north on the east bank for approximately 5000 yards along Eagle Island to 34°13′17.815″ N, 077°58′30.671″ W (Point 5); proceeding East to 34°13′19.488″ N, 077°58′24.414″ W (Point 6); and then approximately 1700 yards to 34°13′27.169″ N, 077°57′51.753″ W (Point 7); proceeding East to 34°13′21.226″ N, 077°57′19.264″ W (Point 8); then across Cape Fear River to the Northeast corner of the Colonial Terminal Pier at 34°13′18.724″ N, 077°57′07.401″ W (Point 9), 800 yards South of Cape Fear Memorial Bridge; Proceeding South along shoreline (east bank) of Cape Fear River for approximately 500 yards; Proceeding east inland to Wilmington State Port property line at 34°13′03.196″ N, 077°56′52.211″ W (Point 10); extending South along Wilmington State Port property line to 34°12′43.409″ N, 077°56′50.815″ W (Point 11); Proceeding to the North entrance of Wilmington State Port at 34°12′28.854″ N, 077°57′01.017″ W (Point 12); Proceeding South along Wilmington State Port property line to 34°12′20.819″ N, 077°57′08.871″ W (Point 13); Continuing South along the Wilmington State Port property line to 34°12′08.164″ N, 077°57′08.530″ W (Point 14); Continuing along State Port property to 34°11′44.426″ N, 077°56′55.003″ W (Point 15); Proceeding South to the main gate of the Wilmington State Port at 34°11′29.578″ N, 077°56′55.240″ W (Point 16); Proceeding South approximately 750 yards to the Southeast property corner of the Apex facility at 34°11′10.936″ N, 077°57′04.798″ W (Point 17); Proceeding West to East bank of Cape Fear River at 34°11′11.092″ N, 077°57′17.146″ W (Point 18); Proceeding South along East bank of Cape Fear River to Original point of origin at 34°10′38.394″ N, 077°57′16.248″ W (Point 1). (NAD 1983)

(b) *Captain of the Port. Captain of the Port* means the Commanding Officer of the Marine Safety Unit Wilmington, NC, or any Coast Guard commissioned, warrant, or petty officer who has been authorized to act on his or her behalf.

(c) *Regulations.* (1) All persons are required to comply with the general regulations governing security zones in 33 CFR 165.33.

(2) Persons or vessels with a need to enter or get passage within the security zone, must first request authorization from the Captain of the Port. The Captain of the Port's representative enforcing the zone can be contacted on VHF marine band radio, channel 16. The Captain of the Port can be contacted at (910) 772–2200 or toll free (877) 229–0770.

(3) The operator of any vessel within this security zone must:

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port or his or her designated representative.

(ii) Proceed as directed by the Captain of the Port or his or her designated representative.

(d) *Effective period.* This section is effective from October 1, 2005, until December 31, 2005.

Dated: September 30, 2005.

Byron L. Black,

Commander, U.S. Coast Guard, Captain of the Port, Commanding Officer Marine Safety Unit Wilmington, North Carolina.

[FR Doc. 05–22576 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050801214–5283–02; I.D. 072105D]

RIN 0648–AQ91

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Sea Turtle Mitigation Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to reduce and mitigate interactions between sea turtles and fisheries managed under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). This rule includes requirements for attending protected species workshops, for handling, resuscitating, and releasing sea turtles that are hooked or entangled in fishing gear, and for fishing gear configuration. This action is being taken in part to comply with the terms and conditions of a 2004 Biological Opinion on impacts on sea turtles by fisheries managed under the Pelagics FMP.

DATES: Effective December 15, 2005.

ADDRESSES: Copies of the following documents are available from William L. Robinson, Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814:

- Regulatory amendment document entitled ''Sea Turtle Mitigation Measures Gear and Handling Requirements, Protected Species Workshop Attendance, and Shallow-Setting Restrictions A Regulatory Amendment to the Western Pacific Pelagics Fishery Management Plan,'' which contains an Environmental Assessment (EA), Regulatory Impact Review and a Final Regulatory Flexibility Assessment;
- The Final Regulatory Flexibility Assessment; and
- The Finding of No Significant Impact (FONSI) for the EA.

Requests for these documents should indicate whether paper copies or electronic copies on CD–ROM are preferred. The documents are also available at the following web site: *http://swr.nmfs.noaa.gov/pir*.

FOR FURTHER INFORMATION CONTACT: Robert Harman, Sustainable Fisheries Division, PIR, NMFS, 808–944–2271.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at: *http://www.archives.gov/federal-register/publications*.

On August 15, 2005, NMFS published in the **Federal Register** a proposed rule (70 FR 47777) that would require vessel owners and operators to attend protected species workshops, to handle, resuscitate, and release sea turtles that are hooked or entangled in fishing gear, and to modify fishing gear configuration. This action is being taken in part to comply with the terms and conditions of a 2004 Biological Opinion resulting from a section 7 consultation under the Endangered Species Act (ESA) that analyzed the impacts on sea turtles caused by fisheries managed under the Pelagics FMP.

In a Biological Opinion issued on February 23, 2004, NMFS concluded that the fisheries managed under the Pelagics FMP were not likely to jeopardize the continued existence of sea turtles or other species listed as threatened or endangered under the ESA.. Among other things, the terms and conditions of the 2004 Biological Opinion require the following: (1) owners and operators of vessels registered for use under longline general permits to attend protected species workshops annually, (2) owners and operators of vessels registered for use under longline general permits to carry and use dip nets, line clippers, and bolt cutters, and follow handling, resuscitation, and release requirements for incidentally hooked or entangled sea turtles, and (3) operators of non-longline vessels using hooks to target pelagic management unit species to follow sea turtle handling, resuscitation, and release requirements, as well as to remove the maximum amount of the gear possible from incidentally hooked or entangled sea turtles.

In addition to recommending the above three measures, the Western Pacific Fishery Management Council (WPFMC) also recommended that NMFS include a fourth measure in this rule to extend to all longline vessels managed under the Pelagics FMP that may shallow-set north of the Equator the conservation benefits derived from the use of circle hooks, mackerel-type bait, and dehookers. The fourth measure also removes incentives for owners of Hawaii-based longline vessels to shed their permits in favor of general permits for the purpose of avoiding the requirement to use circle hooks, mackerel bait, etc., when shallow-setting north of the Equator.

Additional background on this final rule is found in the preamble to the proposed rule (70 FR 47777, published August 15, 2005) and is not repeated here.

Comments and Responses

NMFS received comments on the proposed rule (70 FR 47777, published August 15, 2005) from one interested person. NMFS responds to the comment, as follows:

Comment: The commenter supported the requirement for vessel owners and operators to attend protected species workshops, and the requirement for the owners and operators to be recertified regularly so that their knowledge of protected species stays current.

Response: NMFS appreciates the support for the protected species workshop requirement, and notes that owners and operators must attend the workshop annually to obtain updated information about protected resources.

Changes to the Proposed Rule

In § 660.32, the regulatory text in paragraph (a)(3) is corrected to clarify that vessels affected by this paragraph are those with freeboards of 3 ft (0.91 m) or less. The proposed rule had accurately referred in the preamble and in the title of the regulatory text to vessels with freeboards of 3 ft (0.91 m) or less, but had inadvertently referred in the regulatory text described the paragraph as applying to vessels with freeboards ''greater than'' 3 ft (0.91 m). NMFS received no public comment on this inadvertency.

Classification

The Administrator, Pacific Islands Region, NMFS, determined that this rule

is necessary for the conservation and management of the pelagic fisheries on the western Pacific region, and that it is consistent with the Magnuson–Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The potential economic impacts of this final rule on small entities were identified in an Initial Regulatory Flexibility Analysis (IRFA) and summarized in a **Federal Register** notice published August 15, 2005 (70 FR 47777).. NMFS subsequently prepared a Final Regulatory Flexibility Analysis (FRFA).. A description of why the action is being considered, the objectives and legal basis for the action, and a description of the action, may be found at the beginning of this section. There are no recordkeeping or reporting requirements in this rule. No public comment was made on the IRFA.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides''. The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rule making process, a small entity compliance guide (compliance guide) was prepared.. Copies of this final rule and the compliance guide will be sent to all holders of permits issued for the western Pacific pelagic fisheries. The compliance guide will be available at the following web site *http://swr.nmfs.noaa.gov/pir*. Copies can also be obtained from the PIR (see **ADDRESSES**).

This rule does not duplicate, overlap, or conflict with any relevant Federal rules. All affected vessels are considered to be small entities. Therefore, there are no economic impacts resulting from disproportionality between large and small vessels. A summary of the analysis follows.

Most fishing vessels operating in the western Pacific region under the Pelagics FMP are owner-operated, with few individuals holding permits for more than one vessel. There are estimated to be between 9,000 and 16,000 of these fishing operations (these estimated totals may include vessels that do not operate in EEZ waters), all of which are believed to be small businesses, i.e., according to Small Business Administration guidelines, they have gross revenues of less than $3.5 million annually.

Previously, all operators of longline vessels managed under the Pelagics FMP were required to attend protected species workshops. This requirement was removed by a U.S. District Court on April 1, 2004 (D.D.C., Civ. No. 01–0765). Requiring both the owners and operators of vessels registered for use under longline general permits to annually attend protected species workshops will have a minimal cost for those who reside in Hawaii or American Samoa, where the training workshops are conducted. Some 15 percent of the vessels that fish in American Samoa and Hawaii under longline permits, however, have owners that reside outside of those two areas. A substantial travel cost to attend the workshops would be incurred by those people. NMFS is currently accommodating the owners and operators of Hawaii-based vessels that live outside Hawaii by providing interim protected species training via computer disk, mailed to the owner or operator.. This type of remote training and certification relieves potential travel costs, and may be further developed and implemented for other owners and operators who are not able to attend the workshops in person.

Owners and operators of the vessels that are registered for use under longline general permits were previously required to carry and use dipnets, long-handled line clippers, and bolt cutters, so most vessels with longline general permits already have this gear.. However, these measures were also removed by the Federal Court in the case cited above. If the owners need to re-equip their vessels, the costs are not expected to exceed $100 per vessel. The WPFMC recommended that small longline vessels such as alias, i.e., American Samoa-based catamaran longline vessels generally less than 40 ft (12.2 m) in length, not be required to carry a dip net or long-handled line clippers because, due to the low freeboards on these boats, operators can simply retrieve and release the turtle from the side of the vessel without risk of additional injury to the animal.

The WPFMC's recommendation to require vessels registered under a longline general permit to use size 18/0 or larger circle hooks with a 10° offset, mackerel-type bait, and dehookers when shallow-setting north of the Equator would incur the following costs: Re-equipping longlines with 18/0 circle hooks plus swivels would cost approximately $1.50/hook, and a large (longer than 75 ft or 22.8 m) longline vessel generally deploys 2,000–2,500 hooks/set, so the cost per vessel of that size would be $3,000 to $3,750. American Samoa-based longline vessels already use mackerel-type bait, i.e., sardine or saury (sanma), so there would be no additional cost for the bait requirement for these vessels. Obtaining approved dehookers and associated equipment would cost about $500 per vessel. The WPFMC recommended that small longline vessels with freeboards of less than or equal to three feet not be required to carry long-handled dehookers because operators can more effectively and safely use short-handled dehookers to release sea turtles without risk of additional injury to the animal.

Under this rule, the total cost to equip a vessel registered for use with a longline general permit to shallow-set north of the Equator is estimated to be between $3,500 and $4,250. An ongoing additional annual replacement cost of $0.20 per hook would also be required as circle hooks are slightly more expensive than typical ''J'' hooks.

The requirement for operators of all vessels that use hooks to target PMUS to follow sea turtle handling, resuscitation, and release requirements, including removing trailing gear, is not expected to exact any economic burden on these fishery participants because no gear requirements are being proposed for non-longline vessels, and interactions are rare.

For each of the four measures recommended by the WPFMC, three alternatives were developed, so altogether, 12 alternatives were considered. The alternatives considered for the measure regarding protected species workshop attendance by owners and operators of vessels registered for use under longline general permits were: (1) no action maintaining the status quo; (2) requiring annual attendance by only vessel operators; and (3) requiring annual attendance by both vessel owners and operators.

The alternatives considered for the measure regarding sea turtle mitigation gear (i.e., dip nets, line clippers, and bolt cutters) and handling, resuscitation, and release requirements were: (1) no action maintaining the status quo; (2) requiring owners and operators of vessels registered under a longline general permit to carry and use dip nets, line clippers, and bolt cutters, as well as follow handling, resuscitation, and release requirements for hooked or entangled sea turtles (vessels with 3 ft (0.91 m) of freeboard or less would be exempt from carrying dip nets or long-handled line clippers); and (3) requiring owners and operators of vessels registered under a longline general permit to carry and use dip nets, line

clippers, and bolt cutters, as well as follow handling, resuscitation, and release requirements for hooked or entangled sea turtles, with no exemptions for longline vessels with freeboards less than three ft (0.91 m).

The alternatives for the measure regarding vessels that use hooks to target pelagic management unit species were: (1) no action maintaining the status quo; (2) requiring vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear from a hooked or entangled sea turtle when fishing in the EEZ of the western Pacific region; and (3) requiring vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear, wherever they fish.

The alternatives for the measure regarding gear and bait requirements for owners and operators of vessels registered for use under a longline general permit that may shallow-set north of the Equator were: (1) no action maintaining the status quo; (2) requiring owners and operators to use 18/0 or larger circle hooks with 10° offset, mackerel–type bait, and dehookers when shallow-setting north of the Equator; and (3) prohibiting shallow-setting north of the Equator by vessels registered under longline general permits.

The following alternative was preferred because it best complied with the terms and conditions of the 2004 Biological Opinion: (1) requiring annual workshop attendance by both owners and operators; (2) requiring owners and operators of vessels registered for use under a longline general permit to carry and use dip nets, line clippers, and bolt cutters, as well as to follow handling, resuscitation, and release requirements for hooked or entangled sea turtles (vessels with 3 ft (0.91 m) of freeboard or less would be exempted from carrying dip nets or long-handled line clippers); (3) requiring longline vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear wherever they fish; and (4) requiring longline vessels owners and operators to use 18/0 or larger circle hooks with 10F° offset, mackerel-type bait, and dehookers when shallow-setting north of the Equator (vessels with 3 ft (0.91 m) of freeboard or less would not be required to carry long handled dehookers).

The inclusion of turtle handling requirements contained in 50 CFR 660.32 (c) and (d) (which largely reflects those in 50 CFR 223.206) is necessary because 50 CFR 223.206 only applies to threatened species of sea turtles. This rule extends those handling requirements to interactions between Pelagics FMP fishing vessels and all species of sea turtles.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: November 7, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 660.22, paragraphs (ff), (gg), (ii), (ll), (nn), and (oo) are revised to read as follows:

§ 660.22 Prohibitions.

* * * * *

(ff) Own or operate a vessel registered for use under any longline permit issued under § 660.21 while engaged in longline fishing for Pelagic Management Unit Species and fail to be certified for completion of a NMFS protected species workshop, in violation of § 660.34(a).

(gg) Own or operate a vessel registered for use under any longline permit issued under § 660.21 while engaged in longline fishing for Pelagic Management Unit Species without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of § 660.34(d).

* * * * *

(ii) Fail to carry, or fail to use, a line clipper, dip net, or dehooker on a vessel registered for use under any longline permit issued under § 660.21, in violation of § 660.32.

* * * * *

(ll) When operating a vessel registered for use under any longline permit issued under § 660.21 or operating a vessel using hooks to target Pelagic Management Unit Species while fishing under the Pelagics FMP, fail to comply with the sea turtle handling requirements, in violation of § 660.32(b).

* * * * *

(nn) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 660.21 north of the Equator (0° lat.) with hooks other than offset circle hooks sized 18/0 or larger, with a 10° offset, in violation of § 660.33(f).

(oo) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 660.21 north of the Equator (0° lat.) with bait other than mackerel-type bait, in violation of § 660.33(g).

* * * * *

■ 3. In § 660.32, paragraphs (c) and (d) are removed; paragraphs (a)(2) through (a)(4) are redesignated as paragraphs (a)(4) through (a)(6); paragraphs (a)(1), (b), and newly redesignated paragraph (a)(4) are revised; and paragraphs (a) introductory text, (a)(2), and (a)(3) are added to read as follows:

§ 660.32 Sea turtle mitigation measures.

(a) *Possession and use of required mitigation gear.* The gear required in paragraph (a) of this section must be used according to the sea turtle handling requirements set forth in paragraph (b) of this section.

(1) *Hawaii longline limited access permits.* Any owner or operator of a vessel registered for use under a Hawaii longline limited access permit must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting the minimum design and performance standards specified in paragraph (a)(4) of this section.

(2) *Other longline vessels with freeboards of more than 3 ft (0.91m).* Any owner or operator of a longline vessel with a permit issued under § 660.21 other than a Hawaii limited access longline permit and that has a freeboard of more than 3 ft (0.91 m) must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting ths minimum design and performance standards specified in paragraph (a)(7) of this section.

(3) *Other longline vessels with freeboards of 3 ft (0.91 m) or less.* Any owner or operator of a longline vessel with a permit issued under § 660.21 other than a Hawaii limited access longline permit and that has a freeboard of 3 ft (0.91 m) or less must carry aboard their vessels line clippers capable of cutting the vessels fishing line or leader

within approximately 1 ft (0.3 m) of the eye of an embedded hook, as well as wire or bolt cutters capable of cutting through the vessel's hooks.

(4) *Handline, troll, pole-and-line, and other vessels using hooks other than longline vessels.* Any owner or operator of a vessel fishing under the Pelagics FMP with hooks other than longline gear are not required to carry specific mitigation gear, but must comply with the handling requirements set forth in paragraph (b) of this section.

* * * * *

(b) *Handling requirements.* If a sea turtle is observed to be hooked or entangled in fishing gear from any vessel fishing under the Pelagics FMP, vessel owners and operators must use the required mitigation gear set forth in paragraph (a) of this section to comply with these handling requirements. Any hooked or entangled sea turtle must be handled in a manner to minimize injury and promote survival.

(1) *Sea turtles that cannot be brought aboard.* In instances where a sea turtle is too large to be brought aboard or the sea turtle cannot be brought aboard without causing further injury to the sea turtle, the vessel owner or operator must disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(2) *Sea turtles that can be brought aboard.* In instances where a sea turtle is not too large to be brought aboard, or the sea turtle can be brought aboard without causing further injury to the turtle, the vessel owner or operator must take the following actions:

(i) Immediately bring the sea turtle aboard;

(ii) Handle the sea turtle in accordance with the procedures in paragraphs (b)(3) and (b)(4) of this section; and

(iii) Disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(3) *Sea turtle resuscitation.* If a sea turtle appears dead or comatose, the following actions must be taken:

(i) Place the sea turtle on its belly (on the bottom shell or plastron) so that the sea turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation varies with the size of the sea turtle; greater elevations are needed for larger sea turtles;

(ii) Administer a reflex test at least once every 3 hours. The test is to be performed by gently touching the eye and pinching the tail of a sea turtle to determine if the sea turtle is responsive;

(iii) Keep the sea turtle shaded and damp or moist (but under no circumstances place the sea turtle into a container holding water). A water-soaked towel placed over the eyes, carapace and flippers is the most effective method of keeping a sea turtle moist; and

(iv) Return to the sea any sea turtle that revives and becomes active in the manner described in paragraph (b)(4) of this section. Sea turtles that fail to revive within the 24–hour period must also be returned to the sea in the manner described in paragraph (b)(4) of this section.

(4) *Sea turtle release.* After handling a sea turtle in accordance with the requirements of paragraphs (b)(2) and (b)(3) of this section, the sea turtle must be returned to the ocean after identification unless NMFS requests the retention of a dead sea turtle for research. In releasing a sea turtle the vessel owner or operator must:

(i) Place the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and release the sea turtle away from deployed gear; and

(ii) Observe that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(5) *Other sea turtle requirements.* No sea turtle, including a dead turtle, may be consumed or sold. A sea turtle may be landed, offloaded, transhipped or kept below deck only if NMFS requests the retention of a dead sea turtle for research.

■ 4. In § 660.33, paragraphs (f) and (g) are revised to read as follows:

§ 660.33 Western Pacific longline fishing restrictions.

* * * * *

(f) Any owner or operator of a vessel registered for use under any longline permit issued under § 660.21 must use only offset circle hooks sized 18/0 or larger, with a 10° offset, when shallow-setting north of the Equator (0° lat.). As used in this paragraph, an offset circle hook sized 18/0 or larger is one with an outer diameter at its widest point is no smaller than 1.97 inches (50 mm) when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). As used in this paragraph, a 10° offset is measured from the barbed end of the hook and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

(g) Any owner or operator of a vessel registered for use under any longline permit issued under § 660.21 must use only mackerel-type bait when shallow-setting north of the Equator (0° lat.). As used in this paragraph, mackerel-type bait means a whole fusiform fish with a predominantly blue, green or gray back and predominantly gray, silver or white lower sides and belly.

* * * * *

■ 5. In § 660.34, paragraphs (a), (c), and (d) are revised to read as follows:

§ 660.34 Protected species workshops.

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under § 660.21 must attend and be certified for completion of a workshop conducted by NMFS on interaction mitigation techniques for sea turtles, seabirds and other protected species.

* * * * *

(c) An owner of a vessel registered for use under any longline permit issued under § 660.21 must have a valid protected species workshop certificate issued by NMFS to the owner of the vessel, in order to maintain or renew their vessel registration.

(d) An owner and an operator of a vessel registered for use under any longline permit issued under § 660.21 must have on board the vessel a valid protected species workshop certificate issued by NMFS to the operator of the vessel, or a legible copy thereof.

[FR Doc. 05–22633 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 70, No. 219
Tuesday, November 15, 2005

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22974; Directorate Identifier 2005–NM–180–AD]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain BAE Systems (Operations) Limited Model BAe 146 airplanes. This proposed AD would require repetitive inspections to measure the depth of chafing or scoring in the skin along the full length of the fairing from forward to aft ends at the contact between the seal and fuselage, and related investigative/corrective actions if necessary. This proposed AD results from a report of chafing in this area. We are proposing this AD to ensure the structural integrity of the fuselage.

DATES: We must receive comments on this proposed AD by December 15, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22974; Directorate Identifier 2005–NM–180–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified us that an unsafe condition may exist on certain BAE Systems (Operations) Limited Model BAe 146 airplanes. The CAA advises that chafing has been reported along the skin along the full length of the fairing from forward to aft ends at the point of contact between the seal and fuselage. Subsequent review of the existing inspection program for this type of damage resulted in changes to the program. Such damage, if not corrected, could result in reduced structural integrity of the fuselage.

Relevant Service Information

The manufacturer issued BAE Systems (Operations) Limited Service Bulletins ISB.53–005, Revision 2, dated February 16, 2004, and ISB.53–067, Revision 3, dated June 27, 2005. They describe procedures for repetitive inspections, using a dial test indicator, to measure the depth of chafing or scoring in the skin along the full length of the fairing from forward to aft ends at the points of contact between the seal and fuselage. The following table identifies the inspection areas described in the service bulletins.

INSPECTION AREAS

Use Service Bulletin—	For—	To inspect between—
ISB.53–067	Model BAe 146–100A series airplanes	Frames 25 and 36.
	Model BAe 146–200A series airplanes	Frames 25 and 34.

INSPECTION AREAS—Continued

Use Service Bulletin—	For—	To inspect between—
ISB.53–005	Model BAe 146–300A series airplanes All affected airplanes	Frames 25 and 33C. Frames 23 and 25.

The related investigative/corrective actions described in the service bulletins depend on the amount of chafing damage found:

- For chafing damage within certain limits, the service bulletins describe procedures for blending the damage, and measuring the skin thickness and depth of the blended area and the thickness of the adjacent skin above the blended area.
- For deeper chafing damage (including damage remaining after blending), the service bulletins specify reinspecting affected areas within 2,000 or 4,000 flight cycles, depending on the amount of chafing found. The service bulletin allows operators to defer repair of this amount of chafing for up to 1,000 flight cycles, if operators reinspect affected areas within 250 flight cycles and contact the manufacturer for a repair plan.
- For the deepest chafing damage, the service bulletins recommend contacting the manufacturer for an immediate repair plan.

Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. The CAA mandated the service information and issued British airworthiness directive G–2005–0020, dated July 6, 2005, to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. We have examined the CAA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require the actions specified in the service information described previously, except as discussed below.

Difference Between the Proposed AD and the Service Information

The service bulletins specify to contact the manufacturer for instructions on repairing certain conditions, but this proposed AD would require repairing those conditions using a method that we or the CAA (or its delegated agent) approve. In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, for this proposed AD, a repair we or the CAA approve would be acceptable for compliance with this proposed AD.

Clarification of Repetitive Inspection Interval

The British airworthiness directive, at paragraph C), specifies to repeat the inspections within 4,000-flight-cycle intervals. Under certain conditions, the corresponding interval in Inspection Service Bulletin ISB.53–005 is 2,000 flight cycles. We have determined that a 2,000-flight-cycle interval, under those conditions, is necessary to ensure an acceptable level of safety. The British airworthiness directive does not specify the conditions warranting the reduced repetitive interval, but it does refer to the service bulletin for instructions for corrective action. Our requirements correspond to the service bulletin specifications.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection (ISB.53–005)	2	$65	None	$130	35	$4,550
Inspection (ISB.53–067)	4	65	None	260	35	9,100

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Docket No. FAA–2005–22974; Directorate Identifier 2005–NM–180–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 15, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to BAE Systems (Operations) Limited Model BAe 146–100A, –200A, and –300A series airplanes, certificated in any category, on which Modification HCM00301A or B has been done, and on which Modification HCM0169A has not been done.

Unsafe Condition

(d) This AD results from a report of chafing along the seal/fuselage contact area under the wing-to-fuselage fairing access panels on both sides of the fuselage. We are issuing this AD to ensure the structural integrity of the fuselage.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Inspection

(f) Before the airplane accumulates 1,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later: Inspect, using a dial test indicator, to measure the depth of any chafing or scoring in the skin along the full length of the fairing from forward to aft ends at the point of contact between the seal and fuselage on both sides of the fuselage. Do applicable related investigative/corrective actions in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletins ISB.53–005, Revision 2, dated February 16, 2004, and ISB.53–067, Revision 3, dated June 27, 2005, except as required by paragraph (g) of this AD. Do related investigative/corrective actions and repeat the inspection to measure the chafing/scoring at the times specified in the service bulletins, as applicable.

Exceptions to Service Bulletin Specifications

(g) Where the service bulletins referenced in this AD specify to contact the manufacturer for repair instructions: Before further flight, repair using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Civil Aviation Authority (or its delegated agent).

(h) Although the service bulletins referenced in this AD specify to submit certain information to the manufacturer, this AD does not include that requirement.

Credit for Earlier Accomplishment

(i) Inspections and applicable investigative and corrective actions done before the effective date of this AD are acceptable for compliance with the requirements of paragraph (f) of this AD if done in accordance with one of the service bulletin versions identified in Table 1 of this AD, as applicable.

TABLE 1.—CREDIT SERVICE BULLETINS

BAE Systems (Operations) limited service bulletin	Revision level	Date
ISB.53–005	Original	August 15, 1984.
	Revision 1	April 19, 1984.
ISB.53–067	Original	December 23, 1987.
	Revision 1	February 16, 1990.
	Revision 2	February 16, 2004.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(k) British airworthiness directive G–2005–0020, dated July 6, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22587 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22973; Directorate Identifier 2004–NM–67–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, and A340–300 Series Airplanes; and A340–541 and A340–642 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Model A330–200, A330–300,

A340–200, and A340–300 series airplanes; and A340–541 and A340–642 airplanes. This proposed AD would require operators to revise the Airworthiness Limitations section of the Instructions for Continued Airworthiness to incorporate new information. This information includes, for all affected airplanes, decreased life limit values for certain components; and for Model A330–200 and –300 series airplanes, new inspections, compliance times, and new repetitive intervals to detect fatigue cracking, accidental damage, or corrosion in certain structures. This proposed AD results from a revision to subsection 9–1 of the Airbus A330 and A340 Maintenance Planning Documents (MPD) for Life Limits/Monitored parts, and subsection 9–2 of the Airbus A330 MPD for Airworthiness Limitations Items. We are proposing this AD to ensure the continued structural integrity of these airplanes.

DATES: We must receive comments on this proposed AD by December 15, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *By fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer International Branch, ANM–116, FAA, International Branch, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES.** Include ''Docket No. FAA–2005–22973; Directorate Identifier 2004–NM–67–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of our docket Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you can visit *http://dms.dot.gov.*

Examining the Docket

You can examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified us that an unsafe condition may exist on all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes; and A340–541 and A340–642 airplanes.

The DGAC advises that Airbus A300 Maintenance Planning Document (MPD) subsection 9–2, ''Airworthiness Limitations Items,'' has been revised to reference Issue 12, dated November 1, 2003, of the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness. Issue 12 results from the completion of fatigue and damage tolerance evaluations and introduces, for Model A330 series airplanes, new inspections, compliance times, and repetitive intervals to detect fatigue cracking, accidental damage, or corrosion in certain structures of the airplane.

The DGAC also advises that the list of life limited/monitored parts given in Section 9–1 of the Airbus A330 and A340 MPDs has been revised. The revision provides mandatory replacement times approved under section 25.571 of the Joint Aviation Requirements and the Federal Aviation Regulations (14 CFR 25.571), and applies to all Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes; and A340–541 and A340–642 airplanes. The DGAC advises that certain life limits must be imposed for various components on these airplanes to prevent the onset of fatigue cracking, and that the limits for certain components have decreased in these new revisions.

Incorporating these revisions into the Airworthiness Limitations section of the Instructions for Continued Airworthiness is intended to ensure the continued structural integrity of these airplanes.

Relevant Service Information

Airbus has issued Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items'' (ALI), Issue 12, dated November 1, 2003, of the Airbus A330 MPD, Section 9–2. The ALI document contains items related to evaluations of fatigue and damage tolerance arising from fatigue-critical and flight-cycle accidental damage, and a requirement to control corrosion. Issue 12 specifies new inspections, compliance times, and repetitive intervals to detect fatigue cracking, accidental damage, or corrosion in certain structures.

Airbus has also issued Section 9–1, ''Life Limits/Monitored Parts,'' Revision 05, dated April 7, 2005, of the Airbus A330 and A340 MPDs. The MPDs include the airworthiness limits for Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes; and A340–541 and A340–642 airplanes. Revision 05 increases the life limits of certain components of the MLG and nose landing gear (NLG) for Model A340–541 and A340–642 airplanes, and decreases the existing life limits for other MLG and NLG components for other Airbus Model A330–200, A330–300, A340–200, and A340–300 series airplanes.

Accomplishing the actions specified in these documents is intended to adequately address the unsafe condition. The DGAC mandated these documents and issued French airworthiness directives F–2004–024, dated February 18, 2004; F–2005–069, dated April 27, 2005; and F–2005–070, dated April 27, 2005; to ensure the

continued airworthiness of these airplanes in France.

Explanation of Action Taken by the FAA

In accordance with airworthiness standards requiring ''damage tolerance assessments'' for transport category airplanes (section 25.1529 of the Federal Aviation Regulations (14 CFR 25.1529), and the Appendices referenced in that section), all products certificated to comply with that section must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals) that include an ALS. That section must set forth:

- Mandatory replacement times for structural components,
- Structural inspection intervals, and
- Related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the ALS is required by sections 43.16 (for persons maintaining products) and 91.403 (for operators) of the Federal Aviation Regulations (14 CFR 43.16 and 91.403).

In order to require compliance with these inspection intervals and life limits, we must engage in rulemaking, namely the issuance of an AD. For products certificated to comply with the referenced part 25 requirements, it is within our authority to issue an AD requiring a revision to the ALS that includes reduced life limits, or new or different structural inspection requirements. These revisions then are mandatory for operators under section 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403), which prohibits operation of an airplane for which airworthiness limitations have been issued unless the inspection intervals specified in those limitations have been complied with.

After that document is revised, as required, and the AD has been fully complied with, the life limit or structural inspection change remains enforceable as a part of the airworthiness limitations. (This is analogous to ADs that require changes to the Limitations Section of the Airplane Flight Manual.)

Requiring a revision of the airworthiness limitations, rather than requiring individual inspections, is advantageous for operators because it allows them to record AD compliance status only once—at the time they make the revision—rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. We have examined the DGAC's findings, evaluated all pertinent information, and determined that we need to issue an AD for products of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require operators to revise the ALS of the Instructions for Continued Airworthiness to incorporate new inspections, compliance times, and repetitive intervals to detect fatigue cracking, accidental damage, or corrosion in certain structures.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Revise the ALS	1	$65	None	$65	20	$1,300

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2005–22973; Directorate Identifier 2004–NM–67–AD.

Comments Due Date

(a) The Federal Aviation Administration must receive comments on this AD action by December 15, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A330–201, –202, –203, –223, and –243 airplanes; A330–301, –321, –322, –323, –341, –342, –343 airplanes; A340–211, –212, and –213 airplanes; A340–311, –312, and –313 airplanes; A340–541 airplanes; and A340–642 airplanes; certificated in any category.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (h) of this AD. The request should include a description of changes to the required inspections that will ensure the continued damage tolerance of the affected structure. The FAA has provided guidance for this determination in Advisory Circular (AC) 25–1529.

Unsafe Condition

(d) This AD results from a revision to subsection 9–1 of the Airbus A330 and A340 Maintenance Planning Documents (MPD) for Life Limits/Monitored parts, and subsection 9–2 of the Airbus A330 MPD for Airworthiness Limitations Items. We are issuing this AD to ensure the continued structural integrity of these airplanes.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Airworthiness Limitations Revision

(f) Within 3 months after the effective date of this AD, revise the Airworthiness Limitations section (ALS) of the Instructions for Continued Airworthiness by incorporating into the ALS the documents in paragraph (f)(1) and (f)(2) of this AD, as applicable.

(1) Document AI/SE–M4/95A.0089/97, ''Airworthiness Limitations Items,'' Issue 12, dated November 1, 2003, Section 9–2 of the Airbus A330 Maintenance Planning Document (MPD).

(2) Section 9–1, ''Life Limits/Monitored parts,'' Revision 05, dated April 7, 2005, of the Airbus A330 and A340 MPDs.

(g) Except as provided by paragraph (h) of this AD: After the actions in paragraph (f) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the documents listed in paragraph (f) of this AD.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) French airworthiness directives F–2004–024, dated February 18, 2004; F–2005–069, dated April 27, 2005; and F–2005–070, dated April 27, 2005; also address the subject of this AD.

Issued in Renton, Washington, on November 7, 2005.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22588 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22873; Directorate Identifier 2005–NM–197–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD would require replacing the Camloc fasteners on the sidewall of the center pedestal. This proposed AD results from reports of the Camloc fasteners on the sidewall of the center pedestal disengaging and interfering with an inboard rudder pedal. We are proposing this AD to prevent these fasteners from disengaging and interfering with an inboard rudder pedal, which could reduce directional controllability of the airplane.

DATES: We must receive comments on this proposed AD by December 15, 2005.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Daniel Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, suite 410, Westbury, New York 11590; telephone (516) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2005–22873; Directorate Identifier 2005–NM–197–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web

site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. TCCA advises that it has received several reports of the Camloc fasteners on the sidewall of the center pedestal fully disengaging and interfering with an inboard rudder pedal. In one incident, the rudder jammed during an approach due to a disengaged Camloc fastener that restricted movement of the pilot's inboard rudder pedal and tow brake. This condition, if not corrected, could reduce directional controllability of the airplane.

Relevant Service Information

Bombardier has issued Service Bulletin 601R–31–030, Revision F, dated September 1, 2005. The service bulletin describes procedures for replacing, with screws and nut plate assemblies, the Camloc fasteners on the left and right sidewalls of the center pedestal. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition. TCCA mandated the service information and issued Canadian airworthiness directive CF–2004–23R1, dated July 18, 2005, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 718 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $65 per work hour. Required parts would cost about $135 per airplane. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $143,600, or $200 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly Canadair): Docket No. FAA–2005–22873; Directorate Identifier 2005–NM–197–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by December 15, 2005.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 7986 inclusive.

Unsafe Condition

(d) This AD results from reports of the Camloc fasteners on the sidewall of the center pedestal disengaging and interfering with an inboard rudder pedal. We are issuing this AD to prevent these fasteners from disengaging and interfering with an inboard rudder pedal, which could reduce directional controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within

the compliance times specified, unless the actions have already been done.

Replacement of Fasteners

(f) Within 5,500 flight hours after the effective date of this AD, replace, with screws and nut plate assemblies, the Camloc fasteners on the left and right sidewalls of the center pedestal, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–31–030, Revision F, dated September 1, 2005.

Actions Accomplished Previously

(g) Replacing fasteners before the effective date of this AD in accordance with the Accomplishment Instructions of one of the issues of Bombardier Service Bulletin 601R–31–030 identified in Table 1 of this AD is acceptable for compliance with the requirements of paragraph (f) of this AD.

TABLE 1.—PREVIOUS SERVICE BULLETIN REVISIONS ACCEPTABLE FOR COMPLIANCE

Issue of Bombardier service bulletin 601R–31–030	Date
Original	June 22, 2004.
Revision A	Oct. 6, 2004.
Revision B	Nov. 4, 2004.
Revision C	Dec. 15, 2004.
Revision D	June 16, 2005.
Revision E	July 7, 2005.

Alternative Methods of Compliance (AMOCs)

(h)(1) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(i) Canadian airworthiness directive CF–2004–23R1, dated July 18, 2005, also addresses the subject of this AD.

Issued in Renton, Washington, on November 4, 2005.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 05–22590 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 542

RIN 3141–AA27

Minimum Internal Control Standards

AGENCY: National Indian Gaming Commission.

ACTION: Proposed rule revisions.

SUMMARY: In response to the inherent risks of gaming enterprises and the resulting need for effective internal controls in Tribal gaming operations, the National Indian Gaming Commission (Commission or NIGC) first developed Minimum Internal Control Standards (MICS) for Indian gaming in 1999, which have subsequently been revised. The Commission recognized from the outset that periodic technical adjustments and revisions would be necessary in order to keep the MICS effective in protecting Tribal gaming assets and the interests of Tribal stakeholders and the gaming public. To that end, the following proposed rule revisions contain certain proposed corrections and revisions to the Commission's existing MICS, which are necessary to clarify, improve, and update other existing MICS provisions. The purpose of these proposed MICS revisions is to address apparent shortcomings in the MICS and various changes in Tribal gaming technology and methods.

DATES: Submit comments on or before December 30, 2005. After consideration of all received comments, the Commission will make whatever changes to the proposed revisions that it deems appropriate and then promulgate and publish the final revisions to the Commission's MICS Rule, 25 CFR part 542.

ADDRESSES: Mail comments to ''Comments Proposed MICS Rule Revisions, National Indian Gaming Commission, 1441 L Street NW., Washington, DC 20005, Attn: Acting General Counsel, Penny J. Coleman.'' Comments may be transmitted by facsimile to (202) 632–7066.

FOR FURTHER INFORMATION CONTACT: Vice-Chairman Nelson Westrin, (202) 632–7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 5, 1999, the Commission first published its Minimum Internal Control Standards (MICS) as a Final Rule. As gaming Tribes and the Commission gained practical experience applying the MICS, it became apparent that some of the standards required clarification or modification to be effective, operate as the Commission had intended, and accommodate changes and advances in gaming technology and methods.

Consequently, the Commission, working with an Advisory Committee composed of Commission and nominated Tribal representatives, published the new final revised MICS rule on June 27, 2002. Based on the practical experiences of the Commission and Tribes working with the newly revised MICS, it has once again become apparent that additional corrections, clarifications, and modifications are needed to ensure that the MICS continue to be effective and operate as the Commission intended. To identify which of the current MICS need correction, clarification or modification, the Commission initially solicited input and guidance from NIGC employees, who have extensive gaming regulatory expertise and experience and work closely with Tribal gaming regulators in monitoring the implementation, operation, and effect of the MICS in Tribal gaming operations. The resulting input from NIGC staff convinced the Commission that the MICS require continuing review and prompt revision on an ongoing basis to keep them effective and up-to-date. To address this need, the Commission decided to establish a Standing MICS Advisory Committee to assist it in both identifying and developing necessary MICS revisions on an ongoing basis.

In recognition of its government-to-government relationship with Tribes, and related commitment to meaningful Tribal consultation, the Commission asked gaming Tribes in January of 2004 for nominations of Tribal representatives to serve on its Standing MICS Advisory Committee. From the twenty-seven (27) Tribal nominations that it received, the Commission selected nine (9) Tribal representatives in March 2004 to serve on the Committee. The Commission's Tribal Committee member selections were based on several factors, including the regulatory experience and background of the individuals nominated; the size(s) of their affiliated Tribal gaming operation(s); the types of games played at their affiliated Tribal gaming operation(s); and the areas of the country in which their affiliated Tribal gaming operation(s) are located. The selection process was very difficult because numerous highly qualified Tribal representatives were nominated to serve on this important Committee. As expected, the benefit of including

Tribal representatives on the Committee, who work daily with the MICS, has been invaluable.

Tribal representatives selected to serve on the Commission's Standing MICS Advisory Committee are: Tracy Burris, Gaming Commissioner, Chickasaw Nation Gaming Commission, Chickasaw Nation of Oklahoma; Jack Crawford, Chairman, Umatilla Gaming Commission, Confederated Tribes of the Umatilla Indian Reservation; Patrick Darden, Executive Director, Chitimacha Gaming Commission, Chitimacha Indian Tribe of Louisiana; Mark N. Fox, former Compliance Director, Four Bears Casino, Three Affiliated Tribes of the Fort Berthold Reservation; Sherrilyn Kie, Senior Internal Auditor, Pueblo of Laguna Gaming Authority, Pueblo of Laguna; Patrick Lambert, Executive Director, Eastern Band of Cherokee Gaming Commission, Eastern Band of Cherokee Indians; John Meskill, Director, Mohegan Tribal Gaming Commission, Mohegan Indian Tribe; Jerome Schultze, Executive Director, Morongo Gaming Agency, Morongo Band of Mission Indians; and Lorna Skenandore, Assistant Gaming Manager, Support Services, Oneida Bingo and Casino, formerly Gaming Compliance Manager, Oneida Gaming Commission, Oneida Tribe of Indians of Wisconsin. The Advisory Committee also includes the following Commission representatives: Philip N. Hogen, Chairman; Nelson Westrin, Vice-Chairman; Cloyce V. Choney, Associate Commissioner; Joe H. Smith, Acting Director of Audits; Ken Billingsley, Region III Director; Nicole Peveler, Field Auditor; Ron Ray, Field Investigator; and Katherine Zebell, Staff Attorney, Office of General Counsel.

In the past, the MICS were comprehensively revised on a broad, wholesale basis. Such large-scale revisions proved to be difficult for Tribes to implement in a timely manner and unnecessarily disruptive to Tribal gaming operations. The purpose of the Commission's Standing Committee is to conduct a continuing review of the operation and effectiveness of the existing MICS. The primary purpose of the review is to promptly identify and develop needed revisions of the MICS on a manageable, incremental basis, in order to keep the MICS practical and effective. By making more manageable incremental changes to the MICS on an ongoing basis, the Commission hopes to be more prompt in developing needed revisions, while, at the same time, avoiding larger-scale MICS revisions which take longer to implement and can be unnecessarily disruptive to Tribal gaming operations.

In accordance with this approach, the Commission has developed the following set of proposed MICS rule revisions with the assistance of its Standing MICS Advisory Committee. In doing so, the Commission is carrying out its statutory mandate under the Indian Gaming Regulatory Act (Act or IGRA), 25 U.S.C. 2706(b)(10), to promulgate necessary and appropriate regulations to implement the provisions of the Act. In particular, the following proposed MICS rule revisions are intended to address Congress' purpose and concerns, stated in Section 2702(2) of the Act, that it ''provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure the Indian tribe is the primary beneficiary of the gaming operation, and to ensure the gaming is conducted fairly and honestly by both the operator and the players.''

The Commission, with the Committee's assistance, identified three specific objectives for the following proposed MICS rule revisions: (1) To ensure that the MICS are reasonably comparable to the internal control standards of established gaming jurisdictions; (2) to ensure that the interests of the Tribal stakeholders are adequately safeguarded; and (3) to ensure that the interests of the gaming public are adequately protected.

It should be noted that the NIGC's authority to issue and enforce MICS for Class III gaming was recently challenged in Federal district court in *Colorado River Indian Tribes* v. *NIGC (CRIT),* Case No. 1:04–cv–00010–JDB. The case arose after the Colorado River Indian Tribes objected to an NIGC audit of its Class III gaming operation, which led to the audit's discontinuation. The NIGC subsequently cited the Tribe for an access violation and imposed a fine. The Court ruled that the NIGC's notice of violation and imposition of a civil fine were improper, finding that, under IGRA, the NIGC lacked the authority to issue or enforce MICS for Class III gaming. While the Court held that the NIGC could not penalize the Colorado River Indian Tribes for resisting the NIGC's attempt to conduct an audit of its Class III gaming, it did not enjoin the NIGC from applying its MICS to other Class III operations, nor did the Court prohibit the NIGC from conducting audits to monitor compliance with those MICS. The CRIT decision applies only to the Colorado River Indian Tribes. A notice of appeal was recently filed in the case.

In order to uphold the integrity of Indian gaming, it is important to maintain the continuity of the system of regulation that has been in place since 1999. This system has helped ensure adequate regulation and facilitated growth and prosperity in the industry. Thus, with the exception of the gaming operations of the Colorado River Indian Tribes, the NIGC will continue to monitor Tribal compliance with the MICS with respect to Class II and III gaming, pending the results of our appeal in the CRIT case or further judicial or legislative direction.

The Advisory Committee met on January 25, 2005, May 10, 2005, and September 26, 2005, to discuss the revisions set forth in the following proposed MICS rule revisions. The input received from the Committee Members has been invaluable to the Commission in its development of the following proposed MICS rule revisions. In accordance with the Commission's established Government-to-Government Tribal Consultation Policy, the Commission provided a preliminary working draft of all of the proposed MICS rule revisions contained herein to gaming Tribes on August 26, 2005, for a thirty (30)-day informal review and comment period, before formulation of this proposed rule. In response to its requests for comments, the Commission received twenty two (22) comments from Commission and Tribal Advisory Committee members, individual Tribes, and other interested parties regarding the proposed revisions. A summary of these comments is presented below in the discussion of each proposed revision to which they relate.

General Comments to Proposed MICS Revisions

For reasons stated above in this preamble, the NIGC proposes to revise the following specific sections of its MICS rule, 25 CFR part 542. The following discussion includes the Commission's responses to general comments concerning the MICS and is followed by a discussion regarding each of the specifically proposed revisions, along with previously submitted informal comments to the proposed revisions and the Commission's responses to those comments. As noted above, prior commenters include Commission and Tribal Advisory Committee members, gaming Tribes, and others.

Comments Questioning NIGC Authority To Promulgate MICS for Class III Gaming

Many of the previous informal comments to the preliminary working draft of the MICS revisions pertained to the Commission's authority to promulgate rules governing proposed

the conduct of Class III gaming. Positions were expressed asserting that Congress intended the NIGC's Class III gaming regulatory authority to be limited exclusively to the approval of Tribal gaming ordinances and management contracts. Similar comments were received concerning the first proposed MICS back in 1999. The Commission, at that time, determined in its publication of the original MICS in 1999 that it possessed the statutory authority to promulgate Class III MICS.

As stated in the preamble to those MICS: ''The Commission believes that it does have the authority to promulgate this final rule. * * * [T]he Commission's promulgation of the MICS is consistent with its responsibilities as the Federal regulator of Indian gaming.'' 64 FR 509.

The current Commission reaffirms that determination. The IGRA, which established the regulatory structure for all classes of Indian gaming, expressly provides that the Commission shall promulgate such regulations as it deems appropriate to implement the provisions of (the Act).'' 25 U.S.C. 2706(b)(10). Pursuant to this clearly stated statutory duty and authority under the Act, the Commission has determined that MICS are necessary and appropriate to implement and enforce the regulatory provisions of the Act governing the conduct of both Class II and Class III gaming and accomplish the purposes of the Act.

The Commission believes that the importance of internal control systems in the casino operating environment cannot be overemphasized. While this is true of any industry, it is particularly true and relevant to the revenue-generation processes of a gaming enterprise, which, because of the physical and technical aspects of the games and their operation, and the randomness of game outcomes, makes exacting internal controls mandatory. The internal control systems and standards are the primary management procedures used to protect the operational integrity of gambling games; account for and protect gaming assets and revenues; and assure the reliability of the financial statements for Class II and III gaming operations. Consequently, internal control systems are a vitally important part of properly regulated gaming. Internal control systems govern the gaming enterprise's governing board, management, and other personnel who are responsible for providing reasonable assurances regarding the achievement of the enterprise's objectives. These objectives typically include operational integrity, effectiveness and efficiency, reliable financial statement reporting, and compliance with applicable laws and regulations.

The Commission believes that strict regulations, such as the MICS, are not only appropriate, but necessary, for it to fulfill its responsibilities under the IGRA to establish necessary baseline, or minimum, Federal standards for all Tribal gaming operations on Indian lands. 25 U.S.C. 2702(3). Although the Commission recognizes that many Tribes had sophisticated internal control standards in place prior to the Commission's original promulgation of its MICS, many tribes did not. This absence of minimum Federal internal control standards in all Tribal casinos adversely affected the adequacy of Indian gaming regulation nationwide, and reasonably threatened gaming as a means of providing the expected Tribal benefits intended by IGRA. The Commission continues to strongly believe that promulgation and revision of these standards is necessary and appropriate to effectively implement the provisions of the IGRA, and, therefore, within the Commission's clearly expressed statutory power and duty under Section 2706(b)(10) of the Act.

Comments Recommending Voluntary Tribal Compliance With MICS

Comments were also received suggesting that the NIGC should re-issue the MICS as a bulletin or guideline for Tribes to use voluntarily, at their discretion, in developing and implementing their own Tribal gaming ordinances and internal control standards.

The Commission disagrees. The MICS are common in established gaming jurisdictions, and, to be effective in establishing a minimum baseline for the internal operating procedures of Tribal gaming enterprises, the rules must be concise, explicit, and uniform for all Tribal gaming operations to which they apply. Furthermore, to nurture and promote public confidence in the integrity and regulation of Indian gaming, and ensure its adequate regulation to protect Tribal gaming assets and the interests of Tribal stakeholders and the public, the Commission's MICS regulations must be reasonably uniform in their implementation and application, and regularly monitored and enforced by Tribal regulators and the NIGC to ensure Tribal compliance.

Proposed New, Revised, or Removed Definitions in Section 542.2 of the MICS

The Commission has added or revised definitions of the following six terms in section 542.2 and has removed the following one term in § 542.2. A discussion of each new, revised, or removed definition follows in alphabetical order.

''Account Access Card''

The Commission has revised the existing MICS definition of this term to more accurately define the applicability of the referenced term. Committee members recommended that the definition of ''account access card'' be revised to include the reference that account access cards are not smart cards. No comments were received concerning this proposed revision.

''Cash Equivalent''

This is a new definition. Several Commission Committee members recommended that a definition of the term ''cash equivalent'' be added to the current MICS definitions. In conjunction with other proposed rule revisions to the MICS, which include the term and existing standards, the NIGC has determined that to ensure that the rules are clear and unambiguous, insertion of the definition in the MICS is worthwhile.

Comment was received in previous revisions recommending that the definition be added. The Commission agreed with this suggestion and developed the definition.

''Counter Game''

This is a new definition. Several Tribal and Commission Committee members recommended that a definition of the term ''counter game'' be added to the current MICS definitions. In conjunction with the proposal to add accounting standards to the MICS, which include the term, the NIGC has determined that to ensure that such revisions and existing rules are clear and unambiguous, insertion of the definition is worthwhile. No comments were received concerning this proposed revision.

''Common Intermediate Format''

This is a new definition. Commission Committee members recommended that a definition of the term ''common intermediate format'' be added to the current MICS definitions. In conjunction with the proposed rule's addition of digital surveillance standards to the MICS, which include the term, the NIGC has determined that to ensure that the revisions are clear and unambiguous, insertion of the definition is worthwhile.

''Digital Video Recording (DVR)''

This is a new definition. Commission Committee members recommended that

a definition of the term ''digital video recording (DVR)'' be added to the current MICS definitions. In conjunction with the proposed rule adding digital surveillance standards to the MICS, which include the term, the NIGC has determined that to ensure the revisions and existing rule are clear and unambiguous, insertion of the definition is worthwhile. No comments were received concerning this proposed revision.

''Network Video Recording (NVR)''

This is a new definition. Commission Committee members recommended that a definition of the term ''network video recording (NVR)'' be added to the current MICS definitions. In conjunction with the proposed rule revisions adding digital surveillance standards to the MICS, which include the term, the NIGC has determined that to ensure that the revisions and existing rule are clear and unambiguous, insertion of the definition is worthwhile. One Commenter noted that although cameras can have IP addresses, most often it is the encoders that have IP addresses. It was recommended that the definition be changed to ''utilizing individual IP addresses for each camera 'or encoder' on a closed network system.'' The Commission disagrees and considers the additional clarification to be unnecessary.

''Sufficient Clarity''

This definition is removed. Several Tribal and Commission Committee members recommended that a definition of the term ''sufficient clarity'' be removed from the current MICS definitions. The term ''sufficient clarity'' is being replaced by a more comprehensive definition contained within the proposed revision to the surveillance section. No comments were received concerning this proposed revision.

Proposed Addition to Sections 542.7(g)(1) and 542.8(h)(1) Electronic Equipment

The Commission proposes to revise the noted regulations to clarify the intent of the existing regulation. The amendment has been proposed to explicitly state that bingo electronic systems and pull tab electronic systems utilizing patron account access cards will be required to comply with the applicable standards contained within the MICS. No comments were received concerning this proposed revision.

Proposed Addition and Revisions to Section 542.13(o)(4) Customer Account Generation Standards

The Commission proposes to revise the noted regulation to clarify the intent of the existing regulation. The amendment has been proposed which will explicitly represent that the patron's identification must be verified and the account must identify the patron's name. The standard is consistent with the Bank Secrecy Act and other gaming jurisdictions, which also requires that such patron identification information be recorded and verified at the time of setting up the account. The revision to obtaining a new PIN is intended to clarify that the Gaming Machine Information Center is a clerk who has access to a customer file for changing the PIN. No comments were received concerning this proposed revision.

Proposed Removal of Section 542.16(f)(vi) Document Storage of Original Documents Until Audited

The Commission proposes to remove the noted regulation since it is in conflict with the proposed addition of § 542.19 on accounting standards, specifically the maintenance and preservation of books, records and documents. No comments were received concerning this proposed revision.

Proposed Addition of Section 542.19 What Are the Minimum Internal Control Standards for Accounting?

The Commission proposes to add this new regulation to establish the basic required tenets for a casino accounting function. The proposed addition is common to established gaming jurisdictions. Furthermore, since the MICS were initially adopted, many questions have arisen regarding the relationship of Section 571.7 Maintenance and preservation of papers and records to the MICS. The proposed addition is also intended to clarify and define the scope of the five (5)-year record retention requirement, as the requirement relates to casino records.

One Commenter requested that ''any other records specifically required to be maintained'' under preparing general accounting records include more details as to the phrase ''specifically required by whom.'' The Commission disagrees, and considers the representation to be clear in that the language pertains to other records required by the MICS.

Proposed Revisions to the Following Sections: 542.21(f)(12) (Tier A—Drop and Count) Gaming Machine Bill Acceptor Count Standards; 542.31(f)(12) (Tier B—Drop and Count) Gaming Machine Bill Acceptor Count Standards; 542.41(f)(12) (Tier C—Drop and Count) Gaming Machine Bill Acceptor Count Standards.

The referenced standards represent a duplicate control to an identical requirement contained within each of the respective section's Gaming Machine Bill Acceptor Drop Standards, refer §§ 542.21(e)(4), 542.31(e)(5), and 542.41(e)(5). Specifically, the standard requires the bill acceptor canisters to be posted with a number corresponding to that of the machine from which it was extracted. The subject control pertains to a drop function, as opposed to the count process. Therefore, the Commission is proposing to delete the above subsections. No comments were received pertaining to the proposed revision.

Proposed Additions of: 542.23(i) Technical Standards for Surveillance Systems—Tier A; 542.33(j) Technical Standards for Surveillance Systems —Tier B; 542.43(k) Technical Standards for Surveillance Systems—Tier C.

The Commission proposes to add the referenced regulations to the MICS for the analog surveillance standard governing sufficient clarity in order to make the frame rate more consistent with industry practice. The frame-rate change is deemed necessary for critical functions performed in the gaming areas. Furthermore, with the increasing utilization of digital surveillance systems, the Commission proposes to add the referenced regulation to the MICS. The objective is to ensure uniformity commensurate with the generally accepted digital surveillance standards of established gaming jurisdictions, and to ensure that such systems will facilitate compliance with other relevant sections of the MICS. After consultation with Tribal regulators and operators experienced with digital systems, state gaming regulatory authorities, private gaming operators and digital surveillance vendors, the proposed regulation was formulated.

One Commenter suggested that the requirement of satisfying sufficient clarity for 30 FPS or 30 IPS be required for essential areas such as Table Games, Cage, Soft Count Room, Hard Count Room, etc. The Commission disagrees on adding this to the section on technical standards for surveillance systems. The MICS utilization of the term ''sufficient clarity'' is limited to specific functions within the gaming areas, which directly relate to the risk posed by the particular function. A general application of the 30 FPS or 30 IPS to the gambling games would be difficult for the operator and the

regulator to measure and confirm compliance.

One Commenter suggested changing the wording of ''real motion'' to ''live-action'' in the following way: ''Any area covered by cameras activated by motion detection must record 'live-action' at the frame rate of 30 FPS.'' The Commission agrees and has changed the term used.

One Commenter suggested that the requirement under the digital systems for both audible and visual warning devices was too high of a standard, as well as cost prohibitive, and recommended it be changed to ''of either an audible or visual warning device.'' The Commission disagrees. Based on research performed, it has been determined that industry practice dictates that both methods of notification are needed.

One Commenter suggested that the terms ''viewable'' and ''view'' be added to the digital systems section for satisfying sufficient clarity on producing a video record. The Commission agrees and has added these terms to the section.

One Commenter suggested adding to the use of a network video recorder (NVR) system section that access to the network be limited to not only authorized personnel, but also be password protected. The Commission agrees and has added this to the use of an NVR system that requires access.

Regulatory Matters

Regulatory Flexibility Act

The Commission certifies that the proposed revisions to the Minimum Internal Control Standards contained within this regulation will not have a significant economic impact on small entities, 5 U.S.C. 605(b). The factual basis for this certification is as follows:

Of the 330 Indian gaming operations across the country, approximately 93 of the operations have gross revenues of less than $5 million. Of these, approximately 39 operations have gross revenues of under $1 million. Since the proposed revisions will not apply to gaming operations with gross revenues under $1 million, only 39 small operations may be affected. While this is a substantial number, the Commission believes that the proposed revisions will not have a significant economic impact on these operations for several reasons. Even before implementation of the original MICS, Tribes had internal controls because they are essential to gaming operations in order to protect assets. The costs involved in implementing these controls are part of the regular business costs incurred by a gaming operation. The Commission believes that many Indian gaming operation internal control standards are more stringent than those contained in these regulations. Further, these proposed rule revisions are technical and minor in nature.

Under the proposed revisions, small gaming operations grossing under $1 million are exempted from MICS compliance. Tier A facilities (those with gross revenues between $1 and $5 million) are subject to the yearly requirement that independent certified public accountant testing occur. The purpose of this testing is to measure the gaming operation's compliance with the Tribe's internal control standards. The cost of compliance with this requirement for small gaming operations is estimated at between $3,000 and $5,000. The cost of this report is relatively minimal and does not create a significant economic effect on gaming operations. What little impact exists is further offset because other regulations require yearly independent financial audits that can be conducted at the same time. For these reasons, the Commission has concluded that the proposed rule revisions will not have a significant economic impact on those small entities subject to the rule.

Small Business Regulatory Enforcement Fairness Act

These following proposed revisions do not constitute a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The revisions will not have an annual effect on an economy of $100 million or more. The revisions also will not cause a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies or geographic regions, and do not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

The Commission is an independent regulatory agency, and, as such, is not subject to the Unfunded Mandates Reform Act. Even so, the Commission has determined that the proposed rule revisions do not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector, of expenditures more than $100 million per year. Thus, this is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act, 2 U.S.C. 1501 *et seq.*

The Commission has, however, determined that the proposed rule revisions may have a unique effect on Tribal governments, as they apply exclusively to Tribal governments whenever they undertake the ownership, operation, regulation, or licensing of gaming facilities on Indian lands, as defined by IGRA. Thus, in accordance with Section 203 of the Unfunded Mandates Reform Act, the Commission undertook several actions to provide Tribal governments with adequate notice and opportunities for ''meaningful'' consultation, input, sharing of information, advice and education regarding compliance.

These actions included the formation of a Tribal Advisory Committee and the request for input from Tribal leaders. Section 204(b) of the Unfunded Mandates Reform Act exempts from the Federal Advisory Committee Act (5 U.S.C. App.) meetings with Tribal elected officials (or their designees) for the purpose of exchanging views, information, and advice concerning the implementation of intergovernmental responsibilities or administration. In selecting Committee members, consideration was placed on the applicant's experience in this area, as well as the size of the Tribe the nominee represented, the geographic location of the gaming operation, and the size and type of gaming conducted. The Commission attempted to assemble a Committee that incorporates diversity and is representative of Tribal gaming interests. The Commission will meet with the Advisory Committee to discuss the public comments that are received as a result of the publication of the following proposed MICS rule revisions, and will consider all Tribal and public comments and Committee recommendations before formulating the final rule revisions. The Commission also plans to continue its policy of providing necessary technical assistance, information, and support to enable Tribes to implement and comply with the MICS as revised.

The Commission also provided the proposed revisions to Tribal leaders for comment prior to publication of this proposed rule and considered these comments in formulating the proposed rule. 69 FR 69857.

Takings

In accordance with Executive Order 12630, the Commission has determined that the following proposed MICS rule revisions do not have significant takings implications. A takings implication assessment is not required.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of General Counsel has determined that the following proposed

MICS rule revisions do not unduly burden the judicial system and meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

The following proposed MICS rule revisions require information collection under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, as did the rule it revises. There is no change to the paperwork requirements created by these proposed revisions. The Commission's OMBControl Number for this regulation is 3141–0009.

National Environmental Policy Act

The Commission has determined that the following proposed MICS rule revisions do not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

List of Subjects in 25 CFR Part 542

Accounting, Auditing, Gambling, Indian-lands, Indian-tribal government, Reporting and recordkeeping requirements.

Accordingly, for all of the reasons set forth in the foregoing preamble, the National Indian Gaming Commission proposes to amend 25 CFR part 542 as follows:

PART 542—MINIMUM INTERNAL CONTROL STANDARDS

1. The authority citation for part 542 continues to read as follows:

Authority: 25 U.S.C. 2701 *et seq.*

2. Amend § 542.2 to add, in alphabetical order, the definitions for ''Cash Equivalent,'' ''Counter Game,'' ''Common Intermediate Format,'' ''Digital Video Recording (DVR),'' ''Network Video Recording (NVR),'' by revising the definition for ''Account Access Card'' and by removing the definition for ''Sufficient Clarity'' to read as follows:

§ 542.2 What are the definitions for this part?

* * * * *

Account access card means an instrument used to access customer accounts for wagering at a gaming machine. Account access cards are used in connection with a computerized account database. Account access cards are not smart cards.

* * * * *

Cash Equivalent means the monetary value that a gaming operation may assign to a document or anything else of representative value other than cash, tokens, or chips. A cash equivalent includes, but is not limited to, coupons, vouchers, wagering or payout slips and tickets, debit and credit card receipts, and other items to which a gaming operation has assigned an exchange value.

* * * * *

Common Intermediate Format (CIF) or Full Common Intermediate Format (FCIF) means a set of standard video formats used in DVR systems, defined by their resolution. The original CIF is also known as Full CIF (FCIF).

* * * * *

Counter Game means a game in which the gaming operation is a party to wagers and wherein the gaming operation documents all wagering activity. The term includes, but is not limited to, bingo, keno, and pari-mutuel race books. The term does not include table games, card games and gaming machines.

* * * * *

Digital video recording (DVR) system means a digital video surveillance system consisting of video cameras, monitors, recorders, video printers, computer hardware and software, switches, selectors, and other ancillary equipment used for casino surveillance. Size of gaming operation will dictate quantities of cameras, etc.

* * * * *

Network video recording (NVR) means a digital video surveillance system utilizing individual IP addresses for each camera on a closed network system.

* * * * *

3. Amend § 542.7 to add paragraph (g)(1)(iv) to read as follows:

§ 542.7 What are the minimum internal control standards for bingo?

* * * * *

(g) *Electronic equipment.*

(1) * * *

* * * * *

(iv) If the electronic equipment utilizes patron account access cards for activation of play, then § 542.13(o) (as applicable) shall apply.

* * * * *

4. Amend § 542.8 to add paragraph (h)(1)(iv) to read as follows:

§ 542.8 What are the minimum internal control standards for pull tabs?

* * * * *

(h) *Electronic equipment.*

(1) * * *

* * * * *

(iv) If the electronic equipment utilizes patron account access cards for activation of play, then § 542.13(o) (as applicable) shall apply.

* * * * *

5. Amend § 542.13 to redesignate paragraphs (o)(4)(ii) and (o)(4)(iii) as (o)(4)(iii) and (o)(4)(iv), add new paragraph (o)(4)(ii), and revise newly designated (o)(4)(iv) to read as follows:

§ 542.13 What are the minimum internal control standards for gaming machines?

* * * * *

(o) * * *

(4) * * *

* * * * *

(ii) For each customer file, an employee shall:

(A) Record the customer's name and current address; and

(B) The date the account was opened.

(C) At the time the initial deposit is made, account opened, or credit extended, the identity of the customer shall be verified by examination of a valid driver's license or other reliable photographic identity credential.

* * * * *

(iv) After entering a specified number of incorrect PIN entries at the cage or player terminal, the customer shall be directed to proceed to a clerk to obtain a new PIN. If a customer forgets, misplaces or requests a change to their PIN, the customer shall proceed to a clerk for assistance.

* * * * *

§ 542.16 [Amended]

6. Amend § 542.16 by removing paragraph (f)(1)(vi).

7. Add § 542.19 to read as follows:

§ 542.19 What are the minimum internal control standards for accounting?

(a) Each gaming operation shall prepare accurate, complete, legible, and permanent records of all transactions pertaining to revenue and gaming activities.

(b) Each gaming operation shall prepare general accounting records according to Generally Accepted Accounting Principles on a double entry system of accounting, maintaining detailed, supporting, subsidiary records, including, but not limited to:

(1) Detailed records identifying revenues, expenses, assets, liabilities, and equity for each gaming operation;

(2) Detailed records of all markers, IOU's, returned checks, hold checks, or other similar credit instruments;

(3) Individual and statistical game records to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop by each table game, and to reflect statistical drop, statistical win, and the percentage of statistical win to statistical drop for

each type of table game, by shift, by day, cumulative month-to-date, and cumulative year-to-date, and individual and statistical game records reflecting similar information for all other games;

(4) Gaming machine analysis reports which, by each machine, compare actual hold percentages to theoretical hold percentages;

(5) The records required by § 542 and by the Tribal internal control standards;

(6) Journal entries prepared by the gaming operation and by its independent accountants; and

(7) Any other records specifically required to be maintained.

(c) Each gaming operation shall establish administrative and accounting procedures for the purpose of determining effective control over a gaming operation's fiscal affairs. The procedures shall be designed to reasonably ensure that:

(1) Assets are safeguarded;

(2) Financial records are accurate and reliable;

(3) Transactions are performed only in accordance with management's general and specific authorization;

(4) Transactions are recorded adequately to permit proper reporting of gaming revenue and of fees and taxes, and to maintain accountability of assets;

(5) Recorded accountability for assets is compared with actual assets at reasonable intervals, and appropriate action is taken with respect to any discrepancies; and

(6) Functions, duties, and responsibilities are appropriately segregated in accordance with sound practices by competent, qualified personnel.

(d) *Gross gaming revenue computations.* (1) For table games, gross revenue equals the closing table bankroll, plus credit slips for cash, chips, tokens or personal/payroll checks returned to the cage, plus drop, less opening table bankroll and fills to the table, and money transfers issued from the game through the use of a cashless wagering system.

(2) For gaming machines, gross revenue equals drop, less fills, jackpot payouts and personal property awarded to patrons as gambling winnings. Additionally, the initial hopper load is not a fill and does not affect gross revenue. The difference between the initial hopper load and the total amount that is in the hopper at the end of the gaming operation's fiscal year should be adjusted accordingly as an addition to or subtraction from the drop for the year.

(3) For each counter game, gross revenue equals:

(i) The money accepted by the gaming operation on events or games that occur during the month or will occur in subsequent months, less money paid out during the month to patrons on winning wagers (''cash basis''); or

(ii) The money accepted by the gaming operation on events or games that occur during the month plus money, not previously included in gross revenue, that was accepted by the gaming operation in previous months on events or games occurring in the month, less money paid out during the month to patrons as winning wagers (''modified accrual basis'').

(4) For each card game and any other game in which the gaming operation is not a party to a wager, gross revenue equals all money received by the operation as compensation for conducting the game.

(i) A gaming operation shall not include either shill win or loss in gross revenue computations.

(ii) In computing gross revenue for gaming machines, keno and bingo, the actual cost to the gaming operation of any personal property distributed as losses to patrons may be deducted from winnings (other than costs of travel, lodging, services, food, and beverages), if the gaming operation maintains detailed documents supporting the deduction.

(e) Each gaming operation shall establish internal control systems sufficient to ensure that currency (other than tips or gratuities) received from a patron in the gaming area is promptly placed in a locked box in the table, or, in the case of a cashier, in the appropriate place in the cashier's cage, or on those games which do not have a locked drop box or on card game tables, in an appropriate place on the table, in the cash register, or other approved repository.

(f) If the gaming operation provides periodic payments to satisfy a payout resulting from a wager, the initial installment payment, when paid, and the actual cost of a payment plan that is funded by the gaming operation may be deducted from winnings. The gaming operation is required to obtain the approval of all payment plans from the Tribal gaming regulatory authority. For any funding method which merely guarantees the gaming operation's performance, and under which the gaming operation makes payments out of cash flow (e.g. irrevocable letters of credits, surety bonds, or other similar methods), the gaming operation may only deduct such payments when paid to the patron.

(g) For payouts by wide-area progressive gaming machine systems, a gaming operation may deduct from winnings only its pro rata share of a wide area gaming machine system payout.

(h) Cash-out tickets issued at a gaming machine or gaming device shall be deducted from gross revenue as jackpot payouts in the month the tickets are issued by the gaming machine or gaming device. Tickets deducted from gross revenue that are not redeemed within a period not to exceed 180 days of issuance shall be included in gross revenue. An unredeemed ticket previously included in gross revenue may be deducted from gross revenue in the month redeemed.

(i) A gaming operation may not deduct from gross revenues the unpaid balance of a credit instrument extended for purposes other than gaming.

(j) A gaming operation may deduct from gross revenue the unpaid balance of a credit instrument if the gaming operation documents or otherwise keeps detailed records of compliance with the following requirements. Such records confirming compliance shall be made available to the Tribal gaming regulatory authority or the Commission upon request:

(1) The gaming operation can document that the credit extended was for gaming purposes;

(2) The gaming operation has established procedures and relevant criteria to evaluate a patron's credit reputation or financial resources and to then determine that there is a reasonable basis for extending credit in the amount or sum placed at the patron's disposal;

(3) In the case of personal checks, the gaming operation has established procedures to examine documentation, normally acceptable as a means of identification when cashing checks, and has recorded a bank check guarantee card number or credit card number, or has satisfied paragraph (j)(2) of this section, as management may deem appropriate for the check-cashing authorization granted;

(4) In the case of third party checks for which cash, chips, or tokens have been issued to the patron, or which were accepted in payment of another credit instrument, the gaming operation has established procedures to examine documentation, normally accepted as a means of identification when cashing checks, and has, for the check's maker or drawer, satisfied paragraph (j)(2) of this section, as management may deem appropriate for the check-cashing authorization granted;

(5) In the case of guaranteed drafts, procedures should be established to ensure compliance with the issuance

and acceptance procedures prescribed by the issuer;

(6) The gaming operation has established procedures to ensure that the credit extended is appropriately documented, not least of which would be the patron's identification and signature attesting to the authenticity of the individual credit transactions. The authorizing signature shall be obtained at the time credit is extended.

(7) The gaming operation has established procedures to effectively document its attempt to collect the full amount of the debt. Such documentation would include, but not be limited to, letters sent to the patron, logs of personal or telephone conversations, presentation of the credit instrument to the patron's bank for collection, settlement agreements, or otherwise demonstrates that it has made a good faith attempt to collect the full amount of the debt. Such records documenting collection efforts shall be made available to the Tribal gaming regulatory authority or the Commission upon request.

(k) Maintenance and preservation of books, records and documents. (1) All original books, records and documents pertaining to the conduct of wagering activities shall be retained by a gaming operation in accordance with the following schedule. A record that summarizes gaming transactions is sufficient, provided that all documents containing an original signature(s) attesting to the accuracy of a gaming related transaction are independently preserved. Original books, records or documents shall not include copies of originals, except for copies that contain original comments or notations on parts of multi-part forms. The following original books, records and documents shall be retained by a gaming operation for a minimum of five (5) years:

(i) Casino cage documents;

(ii) Documentation supporting the calculation of table game win;

(iii) Documentation supporting the calculation of gaming machine win;

(iv) Documentation supporting the calculation of revenue received from the games of keno, pari-mutuel, bingo, pull-tabs, card games, and all other gaming activities offered by the gaming operation;

(v) Table games statistical analysis reports;

(vi) Gaming machine statistical analysis reports;

(vii) Bingo, pull-tab, keno and pari-mutuel wagering statistical reports;

(viii) Internal audit documentation and reports;

(ix) Documentation supporting the write-off of gaming credit instruments and named credit instruments;

(x) All other books, records and documents pertaining to the conduct of wagering activities that contain original signature(s) attesting to the accuracy of the gaming related transaction.

(2) Unless otherwise specified in § 542, all other books, records, and documents shall be retained until such time as the accounting records have been audited by the gaming operation's independent Certified Public Accountants.

(3) The above definition shall apply without regards to the medium through which the book, record or document is generated or maintained (paper, computer generated, magnetic media, etc.).

8. Amend § 542.23 to redesignate paragraphs (i) through (r) as (j) through (s), add new paragraph (i), and revise newly redesignated paragraphs (m)(1) introductory text, (m)(2)(i), (o)(1) introductory text, and (o)(4) to read as follows:

§ 542.23 What are the minimum internal control standards for surveillance for Tier A gaming operations?

* * * * *

(i) Technical Standards for Surveillance Systems. (1) Analog Systems:

(i) To satisfy the sufficient clarity requirement of this section, continuous movement must be recorded at the frame rate of 30 FPS (frames per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete, accurate and viewable representation of the activity being observed; and

(iii) Any area covered by cameras activated by motion detection must record live-action at the frame rate of 30 FPS.

(2) Digital Systems (referred to as DVR System):

(i) To satisfy the sufficient clarity requirement of this section, the DVR System must capture, record and view continuous movement at the minimum rate equivalent to 30 IPS (images per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete and accurate representation of the activity being observed;

(iii) The DVR System must have pre- and post-alarm activation at a minimum of five (5) seconds (before and after event) for those areas in which motion-activated cameras are allowed;

(iv) Viewing and recording size of images will be at a minimum of CIF or FCIF for all inclusive areas of the DVR System;

(v) An internal backup system must be included in the configuration to perform in the event that a hard drive failure will have negative impact on the system's ability to record video images;

(vi) The DVR System must have a failure notification function consisting, at a minimum, of both audible and visual warning devices when system failure could negatively impact the ability to record, play back, or store video images;

(vii) If the Casino Operation chooses to utilize a network (also referred to as NVR System) for the interconnection of or playback from digital recording devices, access to this network must be limited to authorized personnel and be password or code protected in order to maintain integrity and data network security;

(viii) If the Gaming Operation elects to utilize authentication/encryption code software, the software must be submitted to the Tribal Gaming Regulatory Authority (TGRA) for inspection and approval.

* * * * *

(m) Table games. (1) Operations with four (4) or more table games. Except as otherwise provided in paragraphs (m)(3), (m)(4), and (m)(5) of this section, the surveillance system of gaming operations, operating four (4) or more table games, shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

* * * * *

(2) * * *

(i) Comply with the requirements of paragraph (m)(1) of this section; or

* * * * *

(o) Gaming machines. (1) Except as otherwise provided in paragraphs (o)(2) and (o)(3) of this section, gaming machines offering a payout of more than $250,000 shall be recorded by a dedicated camera(s) to provide coverage of:

* * * * *

(4) Notwithstanding paragraph (o)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

* * * * *

9. Amend § 542.33 to redesignate paragraphs (j) through (y) as (k) through (z), add a new paragraph (j), and revise newly redesignated paragraphs (p)(1)

introductory text, (p)(2)(i), (r)(1) introductory text, and (r)(4) to read as follows:

§ 542.33 What are the minimum internal control standards for surveillance for Tier B gaming operations?

* * * * *

(j) Technical Standards for Surveillance Systems. (1) Analog Systems:

(i) To satisfy the sufficient clarity requirement of this section, continuous movement must be recorded at the frame rate of 30 FPS (frames per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete and accurate representation of the activity being observed; and

(iii) Any area covered by cameras activated by motion detection must record live-action at the frame rate of 30 FPS.

(2) Digital Systems (referred to as DVR System):

(i) To satisfy the sufficient clarity requirement of this section, the DVR System must capture, record and view continuous movement at the minimum rate equivalent to 30 IPS (images per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete, accurate and viewable representation of the activity being observed;

(iii) The DVR System must have pre- and post-alarm activation at a minimum of five (5) seconds (before and after event) for those areas in which motion-activated cameras are allowed;

(iv) Viewing and recording size of images will be at a minimum of CIF or FCIF for all inclusive areas of the DVR System;

(v) An internal backup system must be included in the configuration to perform in the event that a hard drive failure will have a negative impact on the system's ability to record video images;

(vi) The DVR System must have a failure notification function consisting, at a minimum, of both audible and visual warning devices when system failure could negatively impact the ability to record, play back, or store video images;

(vii) If the Casino Operation chooses to utilize a network (also referred to as NVR System) for the interconnection of or playback from digital recording devices, access to this network must be limited to authorized personnel and be password or code protected in order to maintain integrity and data network security;

(viii) If the Gaming Operation elects to utilize authentication/encryption code software, the software must be submitted to the Tribal Gaming Regulatory Authority (TGRA) for inspection and approval.

* * * * *

(p) Table games. (1) Operations with four (4) or more table games. Except as otherwise provided in paragraphs (p)(3), (p)(4), and (p)(5) of this section, the surveillance system of gaming operations, operating four (4) or more table games, shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

* * * * *

(2) * * *

(i) Comply with the requirements of paragraph (p)(1) of this section; or

* * * * *

(r) Gaming machines. (1) Except as otherwise provided in paragraphs (r)(2) and (r)(3) of this section, gaming machines offering a payout of more than $250,000 shall be monitored and recorded by a dedicated camera(s) to provide coverage of:

* * * * *

(4) Notwithstanding paragraph (r)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

* * * * *

10. Amend § 542.43 to redesignate paragraphs (k) through (z) as (l) through (aa), add a new paragraph (k), and revise newly redesignated paragraphs (q)(1) introductory text, (q)(2)(i), (s)(1) introductory text, and (s)(4) to read as follows:

§ 542.43 What are the minimum internal control standards for surveillance for a Tier C gaming operation?

* * * * *

(k) Technical Standards for Surveillance Systems. (1) Analog Systems:

(i) To satisfy the sufficient clarity requirement of this section, continuous movement must be recorded at the frame rate of 30 FPS (frames per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete and accurate representation of the activity being observed; and

(iii) Any area covered by cameras activated by motion detection must record live action at the frame rate of 30 FPS.

(2) Digital Systems (referred to as DVR System):

(i) To satisfy the sufficient clarity requirement of this section, the DVR System must capture, record and view continuous movement at the minimum rate equivalent to 30 IPS (images per second);

(ii) To satisfy the sufficient clarity requirement of this section, the resolution must be sufficient to produce a video record that is a complete, accurate and viewable representation of the activity being observed;

(iii) The DVR System must have pre- and post-alarm activation at a minimum of five (5) seconds (before and after event) for those areas in which motion-activated cameras are allowed;

(iv) Viewing and recording size of images will be at a minimum of CIF or FCIF for all inclusive areas of the DVR System;

(v) An internal backup system must be included in the configuration to perform in the event that a hard drive failure will have negative impact on the system's ability to record video images;

(vi) The DVR System must have a failure notification function consisting, at a minimum, of both audible and visual warning devices when system failure could negatively impact the ability to record, play back, or store video images;

(vii) If the Casino Operation chooses to utilize a network (also referred to as NVR System) for the interconnection of or playback from digital recording devices, access to this network must be limited to authorized personnel and be password or code protected in order to maintain integrity and data network security;

(viii) If the Gaming Operation elects to utilize authentication/encryption code software, the software must be submitted to the Tribal Gaming Regulatory Authority (TGRA) for inspection and approval.

* * * * *

(q) Table games. (1) Operations with four (4) or more table games. Except as otherwise provided in paragraphs (q)(3), (q)(4), and (q)(5) of this section, the surveillance system of gaming operations, operating four (4) or more table games, shall provide at a minimum one (1) pan-tilt-zoom camera per two (2) tables and surveillance must be capable of taping:

* * * * *

(2) * * *

(i) Comply with the requirements of paragraph (q)(1) of this section; or

* * * * *

(s) Gaming machines.

(1) Except as otherwise provided in paragraphs (s)(2) and (s)(3) of this section, gaming machines offering a payout of more than $250,000 shall be monitored and recorded by a dedicated camera(s) to provide coverage of:

* * * * *

(4) Notwithstanding paragraph (s)(1) of this section, if the gaming machine is a multi-game machine, the Tribal gaming regulatory authority, or the gaming operation subject to the approval of the Tribal gaming regulatory authority, may develop and implement alternative procedures to verify payouts.

* * * * *

Signed in Washington, DC, this 1st day of November, 2005.

Philip N. Hogen,

Chairman.

Nelson Westrin,

Vice Chairman.

Cloyce Choney,

Commissioner.

[FR Doc. 05–22506 Filed 11–14–05; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL–7997–4]

RIN 2060–AK74

Public Hearing and Extension of Public Comment Period for Proposed Rule To Implement the Fine Particle National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of public hearing and extension of public comment period.

SUMMARY: The EPA is announcing that a public hearing for the proposed rule to implement the fine particle national ambient air quality standards (NAAQS) will be held on November 30, 2005 in Washington, DC. The proposed rule was published in the **Federal Register** on November 1, 2005 (70 FR 65984) and is also available at *http://www.epa.gov/pmdesignations*. The hearing will be at the Capitol Hilton Hotel in Washington, DC and will begin at 9 a.m. The EPA is also extending the public comment period for this proposed rule to January 31, 2006.

DATES: The public hearing will be held on November 30, 2005. The public comment period for this proposed rule is extended to January 31, 2006. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the hearing.

ADDRESSES: The public hearing will be held at the Capitol Hilton Hotel, located at 1001 16th Street, NW., Washington, DC 20036, phone 202–393–1000. (The hotel is within walking distance of three Metro stations: The Farragut North, Farragut West, and McPherson Square stations.) Written comments on the proposed rule may also be submitted to EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the proposal for the addresses and detailed instructions. Documents relevant to this action are available for public inspection at the EPA Docket Center, located at 1301 Constitution Avenue, NW., Room B102, Washington, DC between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying. Documents are also available through EPA's electronic Docket system at *http://www.epa.gov/edocket*. The EPA Web site for the rulemaking is *http://www.epa.gov/pmdesignations*.

FOR FURTHER INFORMATION CONTACT: If you would like to speak at the public hearing or have questions concerning the public hearing, please contact Joann Allman of EPA (see contact information under **SUPPLEMENTARY INFORMATION**). Questions concerning $PM_{2.5}$ implementation issues should be addressed to Richard Damberg, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C504–02, Research Triangle Park, NC 27711, phone number (919) 541–5592 or by e-mail at: *damberg.rich@epa.gov*. Questions concerning the new source review program revisions to address the $PM_{2.5}$ standards should be addressed to Raj Rao, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Code C339–03, Research Triangle Park, NC 27711, phone number (919) 541–5344 or by e-mail at: *rao.raj@epa.gov*.

SUPPLEMENTARY INFORMATION:

Public Hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule. The EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. Written comments must be postmarked by January 31, 2006.

If you would like to present oral testimony at the hearing, please notify Joann Allman of the U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, C539–02, Research Triangle Park, NC 27711, telephone (919) 541–1815, e-mail *allman.joann@epa.gov*, by 12 p.m. Eastern time on November 28, 2005. She will provide you with a specific time to provide your comments. Oral testimony will be limited to 5 minutes for each commenter. The EPA encourages commenters to provide EPA with a copy of their oral testimony electronically (via e-mail, computer disk, or CD) or in hard copy form.

The public hearing will begin at 9 a.m. and continue until 5 p.m., if necessary, depending on the number of speakers. The EPA may end the hearing early (no earlier than 2 p.m.) if all registered speakers have had an opportunity to speak. Persons wishing to present oral testimony that have not made arrangements in advance can register by 2 p.m. on the day of the hearing. We will provide equipment for commenters to show overhead slides or make computerized slide presentations if we receive special requests in advance. Commenters should notify Joann Allman if they will need specific equipment. The hearing schedule, including lists of speakers, will be posted on EPA's Web site: *http://www.epa.gov/pmdesignations*. Verbatim transcripts of the hearings and written statements will be included in the rulemaking docket.

Extension of public comment period. The proposed rule was signed by the Administrator on September 8, 2005 and published in the **Federal Register** on November 1, 2005. Since the 60-day public comment period would have concluded on December 31, 2005, EPA has decided to extend the comment period until January 31, 2006 in order to avoid the December holiday period and allow interested parties to have additional time to prepare their comments.

How Can I Get Copies of This Document and Other Related Information?

The EPA has established the official public docket for the Rule to Implement the Fine Particle National Ambient Air Quality Standards under Docket ID No. OAR–2003–0062. Also, the proposed rule was published in the **Federal Register** on November 1, 2005 and is available at *http://www.epa.gov/pmdesignations*.

Dated: November 9, 2005.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 05–22694 Filed 11–14–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To List the Uinta Mountainsnail as Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to list the Uinta mountainsnail (*Oreohelix eurekensis uinta*) as endangered under the Endangered Species Act of 1973, as amended (Act). We find that the petition does not present substantial scientific or commercial information indicating that listing *O. e. uinta* may be warranted. This finding is based on our determination that there is insufficient evidence to indicate that *O. e. uinta* is a valid subspecies, and, therefore, cannot be considered a listable entity pursuant to section 3(15) of the Act. Therefore, we will not initiate a status review in response to this petition. However, the public may submit to us new information concerning the status of or threats to *O. e. uinta* at any time.

DATES: The finding announced in this document was made on November 7, 2005.

ADDRESSES: The complete file for this finding is available for public inspection, by appointment, during normal business hours at the Utah Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, Utah 84119. Submit new information, materials, comments, or questions concerning the status of or threats to this taxon to us at the above address.

FOR FURTHER INFORMATION CONTACT: Henry Maddux, Field Supervisor, Utah Fish and Wildlife Office (see **ADDRESSES**) (telephone 801–975–3330; facsimile 801–975–3331).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to indicate that the petitioned action may be warranted. We are to base this finding on information provided in the petition and other information that is readily available to us (*e.g.*, in our files). To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition, and publish our notice of this finding promptly in the **Federal Register**.

Our standard for substantial information within the Code of Federal Regulations (CFR) with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, we are required to promptly commence a review of the status of the species, if one has not already been initiated under our internal candidate assessment process.

In making this finding, we relied on information provided by the petitioners and evaluated that information in accordance with 50 CFR 424.14(b). We also reviewed additional, readily available information pertinent to *O. e. uinta* to clarify certain points raised in the petition. We did not conduct additional research or subject the petition to rigorous critical review. Our process of coming to a 90-day finding under section 4(b)(3)(A) of the Act and section 424.14(b) of our regulations is limited to a determination of whether the information in the petition meets the ''substantial information'' threshold.

On August 29, 2001, we received a formal petition from the Utah Environmental Congress (UEC) to list *O. e. uinta* as an endangered species pursuant to section 4 of the Act. Although *O. e. uinta* was once thought extinct, a small number had been found in the Ashley National Forest, Uinta County, Utah, in 1998. The August 21, 2001, petition was based largely on this discovery. The petition cited threats from grazing, prescribed fire, logging, and sedimentation from U.S. Forest Service (USFS) road-building operations. The petition also requested that critical habitat be designated simultaneously with the listing of *O. e. uinta* as endangered.

In letters dated September 17 and October 3, 2001, we denied emergency listing because of measures taken by the Ashley National Forest to protect the population. On July 13, 2004, we received a 60-day notice of intent to sue from UEC and other groups. On January 25, 2005, we received a complaint regarding our failure to make the 90-day and 12-month findings. In light of these legal actions, we discussed various options with the plaintiffs and tentatively agreed to submit a completed 90-day finding to the **Federal Register** by November 7, 2005.

Species Information

Oreohelix eurekensis uinta is in the genus *Oreohelix*, commonly called the ''Mountain Snail.'' This genus of land snails is endemic to western North America, with distributions ranging from southwestern Canada, including southern Saskatchewan and British Columbia, to western Chihuahua in northern Mexico (Pilsbry 1939). In terms of the biogeographical distribution of land snails, North America is generally split into Eastern and Western American ''Divisions'' (Pilsbry 1939), while each division is further divided into land snail provinces (Frest 2002). The biogeographical distribution of *Oreohelix* includes the Rocky Mountain, Washingtonian, and Southwestern Provinces of the Western Division of North America (Frest 2002).

Factors determining habitat preferences of land snails include cover, effective moisture availability, and geologic history (Frest 2002). Most land snail species are calciphiles, meaning they are usually restricted to limestone, dolomite, or other substrates containing high levels of the element calcium (Frest 2002). Moist soil conditions are favored and soil pH may be a factor in determining suitable habitat (Frest 2002). Desiccation is the primary factor in mortality (Frest 2002). Moist forests, slope bases, north slopes, springs and seeps, edges of floodplains, and rock talus (a sloping mass of loose rock debris at the base of a cliff) are areas of land snail concentration (Frest 2002). Areas with vegetation or other forms of cover (*e.g.*, rock overhangs and caves) that provide shade also are usually preferred by land snails; abundant downed woody debris is also important (Frest 2002).

Western land snails are typically herbivores, but some may consume animal matter. Land snails contribute substantially to nutrient recycling, breaking down plant detritus and animal waste (Frest 2002). They are preyed upon extensively by small mammals, reptiles, amphibians, birds, and insects (Frest 2002).

Land snails are ''exceptional indicators'' of ecosystem health (Frest 2002). They are present in many environments, have specialized habitat needs, and are essentially sessile

(permanently attached or established; not free to move about). Land snails respond quickly and are vulnerable to disturbances or anthropogenic habitat change (Frest 2002).

Oreohelix species and subspecies vary in size, height of shell spire, degree of carination (*i.e.*, presence and size of a keel or ridge around the outside whorl of the shell), width of umbilicus (*i.e.*, the ventral opening formed in the center of the whorls), and color (Pilsbry 1939). The level of endemism (*i.e.*, the degree to which an organism is restricted to a certain area) among *Oreohelix* species and subspecies is notable and is believed to be specifically associated with unique geology, soils, and vegetation (Frest 2002). Areas of high endemism include the Hells Canyon area of Oregon, Idaho, and Washington, the lower Salmon River drainage of Idaho, the Wasatch Range in Utah, and northwestern portions of Montana (Frest 2002). Isolated geographic localities, such as ''island'' mountain ranges, appear to support endemic species of *Oreohelix* (Frest 2002).

Distribution

The genus *Oreohelix* contains 32 species and 54 subspecies, including *Orehelix eurekensis*—the species most closely associated with *O. e. uinta* (Pilsbry 1933). *O. eurekensis* has been documented in six localities representing four widely separated populations scattered across northern Utah (Oliver and Bosworth 1999).

O. e. uinta has been positively identified in at least two localities: (1) The Ashley National Forest (NF), Uinta County, Utah (Oliver and Boswerth 2000)—the site identified in the petition; and (2) a more recently discovered site identified as Big Spring site, on the Sheep Creek geological loop on the west side of Flaming Gorge Reservoir, approximately 80 kilometers (50 miles) away from the first site (Bill Stroh, USFS biologist, pers. comm.). No long-term studies have been completed to indicate specific population trends and it is unknown if the populations are increasing or decreasing (Oliver and Bosworth 1999). There is speculation that other populations of *O. e. uinta* also may exist in the east Tavaputs Plateau region of Utah (George Oliver, Utah Dept. of Wildlife Resources, pers. comm.).

The Ashley NF site is an open, 45-degree, south-southwest-facing slope of broken limestone and loam. The sparse plant cover of the small area inhabited by *Oreohelix eurekensis uinta* is predominantly chokecherry (*Prunus virgniana*), rose (*Rosa cf. woodsii*), serviceberry (*Amelanchier cf. alnifolia*), pine (*Pinus sp.*), Douglas fir (*Pseudotsuga menzeisii*), thistle (*Cirsium sp*), and wax currant (*Ribes cereum*), although nine other species of forbs and two other species of shrubs also are present. Quaking aspen (*Populus tremuloides*) and sagebrush (*Artemisia sp.*) are prominent plants of the surrounding parts of the same slope (Oliver and Bosworth 2000). Eighty-four dead shells and three live specimens have been collected at the site and compared to paratype (specimens of the type series other than the holotype) specimen collections to verify their taxon (Oliver and Bosworth 2000).

Although we have global positioning system (GPS) coordinates for the Big Spring site on the Sheep Creek geological loop, we have little descriptive information on the localities. Eleven small, dead snails were found approximately 3.8 centimeters (1.5 inches) under the surface in one locality, and, in another locality, others were found in dry soil approximately 0.65 centimeter (0.25 inch) under the surface, under a gooseberry. Shells were collected by the USFS on September 25, 2003, and later identified by George Oliver (Utah Department of Wildlife Resources (UDWR)).

Taxonomy

Oreohelix eurekensis uinta is in the class Gastropoda, family Oreohelicidae, and genus *Oreohelix*. *Oreohelix eurekensis* was originally described as *Oreohelix hemphilli eurekensis* by Henderson and Daniels (1916), but was subsequently elevated to full specific status as *Oreohelix eurekensis* (Henderson 1924). *O. e. eurekensis* was recognized as a subspecies by Henderson and Daniels (1916), and *O. e. uinta* was proposed as a subspecies by Brooks (1939). Brooks proposed subspecific status for *O. e. uinta* based primarily on its relatively wider umbilicus, an exceedingly variable feature in *Oreohelix* taxa (Roscoe and Grosscup 1964). Roscoe and Grosscup (1964) suggested that younger specimens of *O. eurekensis* could not be distinguished from *O. e. uinta* and that *O. e. uinta* may simply be a subadult of *O. eurkensis*. The senior author had ''grave doubts as to the validity'' of *O. e. uinta* even as a subspecies (Roscoe and Grosscup 1964).

Experienced staff of the UDWR reviewed multiple references in an effort to understand the taxonomic history of *Oreohelix eurekensis uinta*. Of the 15 references they identified from 1936 through 2000, only 6 discussed taxonomy and 4 of those only minimally (James F. Karpowitz, UDWR, in litt., August 18, 2005). With the types of information that would be necessary to reconcile the issue of taxonomy (*e.g.*, morphology of soft anatomy, molecular genetics, and breeding experiments) lacking, authors either deferred to Brooks (1939), who justified the subspecies status based on slight morphological distinction and geographic disjunction, or explicitly questioned the validity of the taxon (Karpowitz in litt. 2005). Brooks (1939) stated ''this race is so similar to [typical *Oreohelix eureka*] found * * * about 125 miles * * * from [the new locality] * * * that it would hardly be thought distinguishable if it were not from a different mountain system.''

Karpowitz (in litt. 2005) also quoted Bickel (unpublished report, 1977) as stating that the taxonomic status of both *Orehelix eurekensis* and *O. e. uinta* was ''undetermined, probably a synonym or subspecies of *Oreohelix yavapai*.'' It is clear that, based on the sum total of information reviewed, there has never been a systematic analysis of *O. e. uinta* or its relatives and there is no persuasive or strongly defensible scientific basis for any of the possible taxonomic arrangements (*i.e.*, subspecies or species) that have been proposed (Karpowitz in litt. 2005). Thus, we conclude that there is insufficient scientific evidence to indicate that *O. e. uinta* is a valid subspecies. Therefore, we further conclude that the Uinta mountainsnail cannot at this time be considered a listable entity pursuant to section 3(15) of the Act.

Additional Considerations

The petition presented information pursuant to the five factors listed in section 4 of the Act in an effort to identify threats that may be leading to the decline of the Uinta mountainsnail. These factors are pertinent only in cases where the organism being proposed for listing is a listable entity as defined by section 3(15) of the Act. Nonetheless, we reviewed the information included in the petition, and other information readily available to us, in an effort to identify possible voluntary management actions that may assist with Uinta mountainsnail conservation. We reiterate that this discussion of threats is not a basis for our finding.

The petition suggests that prescribed fire may have extirpated the species, although Oliver and Bosworth (2000) clearly stated that previous attempts to locate *O. e. uinta* by Clarke and Hovingh (1994) were in the wrong location and that their reference to possible extirpation from the burn was unfounded. Although prescribed fire

may be detrimental to mountainsnails, USFS has confirmed that there are currently no prescribed burns scheduled for the type location on the Ashley NF (Bill Stroh, USFS biologist, pers. comm.). The USFS also has confirmed that there are no timber harvests scheduled or anticipated in the site location, nor are there any planned road construction projects (Bill Stroh, USFS biologist, pers. comm.). The site has been fenced and is being monitored by USFS personnel.

At this time, the petitioned population of mountainsnails seems most at risk from scientific collection, an issue not addressed in the petition but the subject of ongoing coordination between USFS, UDWR, and the Service. The rarity of the species also is in question in that at least two populations of *O. e.s uinta* have been positively identified, with two other suspected populations from the east Tavaputs Plateau (George Oliver, UDWR, pers. comm.).

Finding

We have reviewed the petition, literature cited in the petition, and other pertinent information readily available to us. Based on this review, we find the petition does not present substantial information indicating that listing the Uinta mountainsnail may be warranted. This finding is based on the lack of conclusive scientific evidence to indicate that *O. e. uinta* is a valid subspecies. Therefore, we have concluded that the Uinta mountainsnail cannot be considered a listable entity pursuant to section 3(15) of the Act. We will not be commencing a status review in response to this petition. However, we will continue to monitor the taxon's population status and trends, potential threats, and ongoing management actions that might be important with regard to the conservation of the Uinta mountainsnail across its range. We encourage interested parties to continue to gather data that will assist with these conservation efforts. New information should be submitted to the Field Supervisor, Utah Field Office (see **ADDRESSES**).

References Cited

A complete list of all references cited herein is available, upon request, from the Utah Field Office (see **ADDRESSES**).

Author

The primary author of this notice is Marianne Crawford, Utah Field Office, U.S. Fish and Wildlife Service, (see **ADDRESSES**).

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 7, 2005.

Marshall Jones,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 05–22629 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 70, No. 219
Tuesday, November 15, 2005

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 05–082–1]

Availability of an Environmental Assessment for Field Testing Canine Melanoma Vaccine, DNA

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed Canine Melanoma Vaccine, DNA, for use in dogs. The environmental assessment, which is based on a risk analysis prepared to assess the risks associated with the field testing of this vaccine, examines the potential effects that field testing this veterinary vaccine could have on the quality of the human environment. Based on the risk analysis, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment, and that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing following the close of the comment period for this notice unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a U.S. Veterinary Biological Product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and the issuance of a finding of no significant impact and the product meets all other requirements for licensing.

DATES: We will consider all comments that we receive on or before December 15, 2005.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2005–0104 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in Regulations.gov.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–082–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–082–1.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

For information regarding the environmental assessment or the risk analysis, or to request a copy of the environmental assessment (as well as the risk analysis with confidential business information removed), contact Dr. Patricia L. Foley, Risk Manager, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785, fax (515) 232–7120.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA) concerning the field testing of the following unlicensed veterinary biological product:

Requester: Merial, Inc.

Product: Canine Melanoma Vaccine, DNA.

Field Test Locations: Washington, Arizona, New York, North Carolina, and Texas.

The above-mentioned product is a replication-incompetent DNA vaccine consisting of a plasmid vector and an inserted therapeutic gene. The vaccine is for use in dogs as an adjunct therapy for canine melanoma.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial issues with adverse environmental impacts are raised in response to this notice, APHIS intends to issue a finding of no significant impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the

EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensing.

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 8th day of November 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E5–6297 Filed 11–14–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 05–083–1]

Availability of an Environmental Assessment for Field Testing West Nile Virus Vaccine, Live Flavivirus Chimera

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment concerning authorization to ship for the purpose of field testing, and then to field test, an unlicensed West Nile Virus Vaccine, Live Flavivirus Chimera for use in horses. The environmental assessment, which is based on a risk analysis prepared to assess the risks associated with the field testing of this vaccine, examines the potential effects that field testing this veterinary vaccine could have on the quality of the human environment. Based on the risk analysis, we have reached a preliminary determination that field testing this veterinary vaccine will not have a significant impact on the quality of the human environment, and that an environmental impact statement need not be prepared. We intend to authorize shipment of this vaccine for field testing following the close of the comment period for this notice unless new substantial issues bearing on the effects of this action are brought to our attention. We also intend to issue a U.S. Veterinary Biological Product license for this vaccine, provided the field test data support the conclusions of the environmental assessment and the issuance of a finding of no significant impact and the product meets all other requirements for licensing.

DATES: We will consider all comments that we receive on or before December 15, 2005.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search for Open Regulations'' box, select ''Animal and Plant Health Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select APHIS–2005–0105 to submit or view public comments and to view supporting and related materials available electronically. After the close of the comment period, the docket can be viewed using the ''Advanced Search'' function in *Regulations.gov*.
- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. 05–083–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 05–083–1.

Reading Room: You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

Other Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Albert P. Morgan, Chief Staff Officer, Operational Support Section, Center for Veterinary Biologics, Policy, Evaluation, and Licensing, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

For information regarding the environmental assessment or the risk analysis, or to request a copy of the environmental assessment (as well as the risk analysis with confidential business information removed), contact Dr. Patricia L. Foley, Risk Manager, Center for Veterinary Biologics, Policy, Evaluation, and Licensing VS, APHIS, 510 South 17th Street, Suite 104, Ames, IA 50010; phone (515) 232–5785, fax (515) 232–7120.

SUPPLEMENTARY INFORMATION: Under the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*), a veterinary biological product must be shown to be pure, safe, potent, and efficacious before a veterinary biological product license may be issued. A field test is generally necessary to satisfy prelicensing requirements for veterinary biological products. Prior to conducting a field test on an unlicensed product, an applicant must obtain approval from the Animal and Plant Health Inspection Service (APHIS), as well as obtain APHIS' authorization to ship the product for field testing.

To determine whether to authorize shipment and grant approval for the field testing of the unlicensed product referenced in this notice, APHIS conducted a risk analysis to assess the potential effects of this product on the safety of animals, public health, and the environment. Based on the risk analysis, APHIS has prepared an environmental assessment (EA) concerning the field testing of the following unlicensed veterinary biological product:

Requester: Intervet, Inc.

Product: West Nile Virus Vaccine, Live Flavivirus Chimera.

Field Test Locations: Tennessee, Kansas, Missouri, Florida, Texas, Oklahoma, Kentucky, California, New Jersey, Wisconsin, and Montana.

The above-mentioned product is a live chimeric virus consisting of the attenuated human vaccine strain of Yellow Fever Virus (strain 17 D) with its structural premembrane (prM) and envelope (E) genes replaced by the prM and E genes of West Nile virus. The vaccine is for use in horses as an aid in the prevention of viremia and clinical signs caused by West Nile Virus.

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provision of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Unless substantial issues with adverse environmental impacts are raised in response to this notice, APHIS intends to issue a finding of no significant

impact (FONSI) based on the EA and authorize shipment of the above product for the initiation of field tests following the close of the comment period for this notice.

Because the issues raised by field testing and by issuance of a license are identical, APHIS has concluded that the EA that is generated for field testing would also be applicable to the proposed licensing action. Provided that the field test data support the conclusions of the original EA and the issuance of a FONSI, APHIS does not intend to issue a separate EA and FONSI to support the issuance of the product license, and would determine that an environmental impact statement need not be prepared. APHIS intends to issue a veterinary biological product license for this vaccine following completion of the field test provided no adverse impacts on the human environment are identified and provided the product meets all other requirements for licensing.

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 8th day of November 2005.

Elizabeth E. Gaston,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E5–6293 Filed 11–14–05; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Natapoc Ridge Forest Restoration Project, Okanogan-Wenatchee National Forests, Chelan County, WA

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a site-specific proposal to improve forest health and sustainability on National Forest lands in the Natapoc Mountain area of the Wenatchee River Ranger District, Okanogan-Wenatchee National Forests. The proposal will include a variety of vegetative treatments and road management actions, as further described in the **SUPPLEMENTARY INFORMATION** section below. Approximately 4,588 acres would be treated in the proposed project area.

The analysis area is located within the Wenatchee River watershed near Plain, Washington, approximately 12 miles north of the city of Leavenworth. It is generally bounded by U.S. Highway 2 and State Highway 207 to the west, and the Wenatchee River to the north, east and west, and includes parts of the following townships: T27N, R17E; T26N, R17E; and T25N, R17E., Williamette Meridian.

The proposal is designed to meet the following needs: (1) Promote the restoration of forest structure, composition, and age class distribution, to a more sustainable condition; (2) reduce the risks from wildfire, insects, and disease to late-successional habitat in the Deadhorse Late Successional Reserve and Natapoc Managed Late Successional Area; and (3) reduce hazardous fuels within the wildland-urban interface, particularly in areas adjacent to private property. The direction in the Wenatchee National Forest Land and Resource Management Plan (1990), as amended by the Northwest Forest Plan (1994; 2004), provides the overall guidance for management of this area.

Activities would be implemented between 2006 and approximately 2016 by a combination of private contracting, Forest Service personnel, cooperative agreements, and volunteers.

DATES: Comments concerning the scope of the analysis must be received by December 14, 2005.

ADDRESSES: Submit written comments to James L. Boynton, Forest Supervisor, c/o Vaughan Marable, District Ranger, Wenatchee River Ranger District, 600 Sherbourne, Leavenworth, Washington 98826, Attn: Natapoc Ridge Forest Restoration Project. Comments may be mailed electronically to *comments_wenatchee_river@fs.fed.us.* See the **SUPPLEMENTARY INFORMATION** section below for file formats and other information about electronic filing of comments.

FOR FURTHER INFORMATION CONTACT: Steve Willet, Natapoc Project Leader, USDA Forest Service, Wenatchee River Ranger District, 600 Sherbourne, Leavenworth, Washington 98826; phone 509–548–6977, Ext. 288.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose and need for action in the project area is to promote the restoration of forest structure, composition, and age class distribution, to a more sustainable condition. Fire exclusion and timber harvest over the last 100 years have dramatically changed these forest components. Stand densities and fuel accumulations are abnormally high and at risk of uncharacteristic stand replacement wildfire. Fire exclusion and past timber harvest have also altered forest composition by increasing the fire intolerant species while decreasing the fire tolerant species. The number of host trees susceptible to disease or insect attack has increased. The proposed action is needed to reduce the risk of large scale, uncharacteristic wildfire and improve forest health.

In dry forest types within the project area, the objective is to promote open stands of large ponderosa pine and Douglas-fir. In mesic forest types of the project area, the objective is to promote a mosiac of diverse stand structures, spatially isolating crown-fire prone stands. Within the Deadhorse Late Successional Reserve and Natapoc Managed Late Successional Area, the purpose and need is to reduce the risk to late-successional habitat from wildfire, insects and disease. The Natapoc Ridge Forest Restoration Project would also reduce hazardous fuels within the wildland-urban interface, especially in areas adjacent to private property, to provide access and increase safety for firefighters and the public.

The Forest Service has successfully implemented similar restoration projects in the Fish Lake and Natapoc Ridge area since the early 1990s. This proposal is a continuation of those efforts.

Proposed Action

The proposed Natapoc Ridge Forest Restoration Project would include the following activities:

—Commercial thinning of overstocked stands to improve tree vigor, reduce ladder and crown fuels, and favor the retention of large healthy Douglas-fir and ponderosa pine. Various combinations of underburning, hand piling/pile burning, and top/limb yarding would be used to reduce both activity and existing fuels.

—Non-commercial thinning and some pruning of small trees to improve vigor, reduce ladder and crown fuels, and favor desired species. Treatment areas would mostly occur in 15+ year old plantations.

—Regeneration harvest of selected stands that are currently unstable due to insect and disease infestations. Usually, all but 5 to 10 large, healthy trees would be cut in these areas. Areas would be replanted with desired tree species.

—Ladder and surface fuel reduction through pruning or cutting of low hanging limbs and small trees up to 6 to 7 inches in diameter in order to reduce potential surface fire intensity and to prevent tree torching.

—Underburning of selected areas to reduce ladder fuels and accumulated surface fuels.
—Closure of portions of the existing open roads to motorized vehicles in order to reduce overall road mileage in the project area.
—Noxious weed prevention and control through use of manual, cultural, and/or chemical control methods.

Proposed logging systems would include helicopter, ground-based over snow, and/or skyline cable systems. Access for treatments could require construction of approximately 15.2 miles of temporary new road, reconstruction of approximately 1.7 miles of existing permanent roads, and reopening of approximately 16.8 miles of existing closed roads. All new, reconstructed, and reopened roads would be closed after completion of project activities. In addition, approximately 8.0 miles of existing open roads are proposed to be closed after completion of project activities.

The proposed action also includes a minor amendment of the 1990 Wenatchee Forest Plan to clarify standards and guidlines for intermediate harvest in the Classified Special Area (SI–2) land allocation.

The Natapoc Ridge Forest Restoration Project was prompted by the 1996 Nason Creek Watershed Analysis, the 1999 Mainstem Wenatchee River Watershed Analysis, and the 2004 Forest Health Assessment for the Okanogan-Wenatchee National Forests. A number of strategies were suggested that would begin moving areas of the watershed back to the desired condition. This proposed action is intended to carry out some of these strategies within the Natapoc portion of the watershed.

Possible Alternatives

A full range of alternatives will be considered, including a No Action Alternative, in which none of the activities proposed above would be implemented. Based on the issues gathered during scoping, the action alternatives would differ in (1) the silvicultural treatments prescribed; (2) the type, amount and location of harvest; (3) the amount and location of fuels reduction activities; and (4) the proposals for road management, including road closures and new construction.

Responsible Official

The Responsible Official is James L. Boynton, Forest Supervisor, Okanogan-Wenatchee National Forests, 215 Melody Lane, Wenatchee, Washington 98801. The Responsible Official will document the Natapoc Ridge Forest Restoration Project decision and reasons for the decision in a Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 215).

Nature of Decision To Be Made

The Responsible Official will decide which, if any, of the proposed activities will be implemented, including the type, extent, and location of vegetative treatments to carry out on National Forest System lands within the project area, and management of the associated road system. The decision regarding which combination of actions to implement will be determined by comparing how each factor of the project purpose and need is met by each of the alternatives and the manner in which each alternative responds to the key issues raised and public comments received during the analysis.

Scoping Process

Public participation will be sought at several points during the analysis, including listing of this project in the Fall 2005 and subsequent issues of the Okanogan-Wenatchee National Forests Schedule of Proposed Actions; letters to Indian Tribes, agencies, organizations and individuals who may be interested in or affected by the proposed activities; and a legal notice in *The Wenatchee World* newspaper. A public meeting may be scheduled during the winter/spring of 2006. The scoping process will include identifying potential issues, identifying major issues to be analyzed in depth, eliminating non-significant issues or those previously covered by a relevant environmental analysis, exploring additional alternatives derived from the issues recognized during scoping activities, and identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect and cumulative effects and connected actions).

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR part 215. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

Electronic Access and Filing Addresses

Comments and data may be submitted by sending electronic mail (e-mail) to: *comments_wenatchee_river@fs.fed.us.* Include the project name in the e-mail subject line and submit comments either as part of the e-mail message or as an attachment in one of the following three formats: Microsoft Word, rich text format (rtf) or Adobe Portable Document Format (pdf).

Preliminary Issues

Preliminary issues include the following: Effects to late-successional habitat of the Deadhorse Late Successional Reserve and the Natapoc Managed Late Successional Area; effects of the proposed activities on the scenic and recreational qualities of the Wenatchee Wild and Scenic River corridor; effects on the Wenatchee River fisheries, riparian reserves, grizzly bear core habitat, spotted owl critical habitat, deer winter range, large old trees, and noxius weeds; disturbance to heritage resources; ability of the proposed activities to contribute to restoration of sustainable vegetative composition, structure and pattern; and the degree to which activities will reduce fuels in critical wildland-urban interface areas.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.** The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for review in April 2005 and the final EIS is expected to be completed by July 2005.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is

meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: November 7, 2005.

Paul Hart,

Acting Forest Supervisor.

[FR Doc. 05–22595 Filed 11–14–05; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 051102289–5289–01]

Service Annual Survey for 2005

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: In accordance with Title 13, United States Code (U.S.C.), Sections 182, 224, and 225, the Bureau of the Census (Census Bureau) has determined that limited financial data (revenue, expenses, and the like) for selected service industries are needed to provide a sound statistical basis for the formation of policy by various governmental agencies. These data also apply to a variety of public and business needs. To obtain the desired data, the Census Bureau announces the administration of the 2005 Service Annual Survey (SAS).

ADDRESSES: The Census Bureau will furnish report forms to respondents included in the survey, and additional copies are available upon written request to the Director, Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Ron Farrar, Chief, Health and Consumer Services Branch, Service Sector Statistics Division, on (301) 763–6782.

SUPPLEMENTARY INFORMATION: The Census Bureau conducts surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, U.S.C. The SAS provides continuing and timely national statistical data each year. Data collected in this survey are within the general scope, type, and character of those inquiries covered in the economic census.

The Census Bureau needs reports only from a limited sample of service sector firms in the United States. The SAS now covers all or some of the following nine sectors: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Professional, Scientific, and Technical Services; Administrative and Support and Waste Management and Remediation Services; Health Care and Social Assistance; Arts, Entertainment, and Recreation; and Other Services. The probability of a firm's selection is based on its revenue size (estimated from payroll); that is, firms with a larger payroll will have a greater probability of being selected than those with smaller ones. We are mailing report forms to the firms covered by this survey and require their submission within 30 days after receipt. These data are not publicly available from nongovernment or other government sources.

Based upon the foregoing, the Census Bureau is conducting the 2005 SAS for the purpose of collecting these data.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 35, the OMB approved the SAS under OMB Control Number 0607–0422.

Dated: November 9, 2005.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 05–22599 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 050728205–5287–02]

RIN 0607–AA45

Annual Trade Survey

AGENCY: Bureau of the Census, Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of the Census (Census Bureau) is expanding the 2005 Annual Trade Survey (ATS) to include agents, brokers, and electronic markets (AGBR). The Bureau of Economic Analysis (BEA) has requested the expansion. The BEA considers this information vital to its accurate measurement of sales and value added for wholesale trade. These data are important inputs to BEA's preparation of National Income and Product accounts and its annual input-output tables.

EFFECTIVE DATES: The Census Bureau adopts the expanded ATS as of November 15, 2005.

ADDRESSES: The Census Bureau will furnish report forms to respondents included in the survey, and additional copies are available upon written request to the Director, Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: John R. Trimble, Chief, Annual Wholesale and Special Projects Branch, Service Sector Statistics Division, on (301) 763–7223 or by e-mail at *John.R.Trimble@census.gov.*

SUPPLEMENTARY INFORMATION: The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major censuses authorized by Title 13, United States Code (U.S.C.), Sections 182, 224, and 225. Reporting by AGBR offices will be mandatory and will provide continuing and timely national statistical data. Data collected in this survey will be within the general scope, type, and character of those inquiries covered in the Economic Census.

The current ATS collects data for all merchant wholesalers, including manufacturers' sales branches and offices (MSBO). The expanded survey will include a selected sample of AGBRs that facilitate sales between businesses

in the United States. These data will be a vital source for accurately measuring the sales, commissions, sales arranged for others, e-commerce, and operating expenses of these types of companies. The BEA has made repeated requests for this information. The expanded ATS will cover all sales from the wholesale sector compared to about 90 percent of sales in the present ATS sample.

Beginning with the survey year 2005, the goal will be to maximize industry coverage within our available resources. In order to establish reporting arrangements and reduce respondent burden, we will mail report forms to a sample of firms on a company basis and contact them in person, as well as by phone and mail. We will mail firms in the survey an introduction letter, report forms, and a flyer instructing them how to reply electronically. We request that forms be completed and returned 30 days after receipt. The report forms will request similar data items, but different forms will be used to accommodate wholesale distributors, MSBO, and AGBR companies, as well as both large and small firms. Later, if necessary, additional mail follow-ups and telephone follow-ups will be conducted.

The primary users of these data are federal, state, and local government agencies, including the Census Bureau, the Bureau of Labor Statistics, and BEA. Other users include business firms, academics, trade associations, and research and consulting organizations.

On September 20, 2005 (70 FR 55104), the Census Bureau published in the **Federal Register** a notice and request for comments on the expansion of the ATS. We received two comments that were not responsive to the solicitation. Accordingly, the Census Bureau is adopting, without change, its proposal to include agents, broker, and electronic markets in the 2005 Annual Trade Survey.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this notice would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published in the earlier notice and request for comment (09/20/05; 70 FR 55104). No comments were received regarding the economic impact of that notice. As a result, no final regulatory flexibility analysis was prepared.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a current valid Office of Management and Budget (OMB) control number. This notice contains a collection of information subject to the requirements of the PRA (44 U.S.C. 3501 *et seq.*). In accordance with the PRA, OMB approved on September 21, 2005, with control number 0607–0195, the collection of all information associated with this notice. We estimate the number of additional respondents to be 390 and estimate an additional 677 annual burden hours with this expanded data collection. Also, we estimate that the time for the additional responses associated with this data collection will be approximately 28 minutes. We will furnish report forms to organizations included in the survey, and additional copies will be available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

Dated: November 9, 2005.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 05–22598 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[05–BIS–01]

In the Matter of: Phaedon Nicholas Criton Constan-Tatos (a.k.a. Fred Tatos) Suburban Guns (Pty) Ltd., 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa; Respondent

Decision and Order

This matter is before me upon a Recommended Decision and Order of an Administrative Law Judge (''ALJ''), as further described below.

In a Charging Letter filed on January 28, 2005, the Bureau of Industry and Security (''BIS'') alleged that respondent Phaedon Nicholas Criton Constan-Tatos a.k.a. Fred Tatos (''Tatos'') committed five violations of the Export Administration Regulations (the ''Regulations'') [1], issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. sections 2401–2420 (2000)) (the ''Act'').[2] Specifically, BIS alleged that Tatos committed two violations of section 764.2(a), two violations of section 764.2(e), and one violation of section 764.2(k) of the Regulations. The Charging Letter alleged that, in violation of a denial of export privileges imposed against Suburban Guns (Pty) Ltd. (''Suburban Guns'') by BIS on April 1, 1998,[3] Tatos twice facilitated the acquisition by Suburban Guns of shotgun screw chokes, choke tubes, and barrels, which are classified under Export Control Classification Number (''ECCN'') 0A984, and of other shotgun accessories, which are designated as EAR99 items, from U.S. companies.[4] The Charging Letter further alleged that Tatos committed these acts in violation of the Denial Order imposed against Suburban Guns with knowledge that violations of an Order issued under the Act and the Regulations would occur. Finally, the Charging Letter alleged that Tatos made a false representation to an official of BIS during BIS's investigation of this case when he stated in an e-mail communication to a BIS Office of Export Enforcement Special Agent that Suburban Guns had not imported any items from the United States since the imposition of the Denial Order against it.

BIS's Charging Letter was served by certified mail on Tatos on January 28, 2005, and received on or about February 11, 2005. Tatos did not file an answer to BIS's Charging Letter with the ALJ.

On August 4, 2005, BIS filed a Motion for Default with the ALJ, recommending

[1] The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations. 15 CFR parts 730–774 (2000). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized by Pub. L. No. 106–508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 FR 45273, Aug. 5, 2005), has continued the Regulations in effect under IEEPA.

[3] Action Affecting Export Privileges; Suburban Guns (Pty) Ltd., 63 FR 15,828 (Apr. 1, 1998).

[4] EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List.

that Tatos be denied export privileges for a period of five years and that Tatos be required to pay a $55,000 penalty. Thereafter, on September 21, 2005, based on the record before it, the ALJ issued a Recommended Decision and Order in which he found that Tatos committed five violations of the Regulations and recommended the penalty proposed by BIS—denial of Tatos' export privileges for five years and imposition of a $55,000 penalty against Tatos.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law regarding the liability of Tatos for the above-referenced charges. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations and the importance of preventing future unauthorized exports. Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

Accordingly, It Is Therefore Ordered,

First, that a civil penalty of $55,000 is assessed against Phaedon Nicholas Criton Constan-Tatos a.k.a. Fred Tatos (''Tatos''), which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Tatos will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privilege granted, or to be granted, to Tatos. Accordingly, if Tatos should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Tatos' export privileges for a period of one year from the date of entry of this Order.

Fourth, that, for a period of five years from the date of this Order, Phaedon Nicholas Criton Constan-Tatos a.k.a. Fred Tatos 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa, and when acting for or on behalf of Tatos, his representatives, agents, assigns, and employees (''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Seventh, that this Order does not prohibit any export, re-export or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that this Order shall be served on the Respondent and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: October 20, 2005.

David H. McCormick,

Under Secretary for Industry and Security.

Recommended Decision and Order

On January 28, 2005, the Bureau of Industry and Security, U.S. Department of Commerce (hereinafter, ''BIS''), issued a charging letter initiating this administrative enforcement proceeding against Phaedon Nicholas Criton Constan-Tatos (a.k.a. Fred Tatos) (hereinafter, ''Tatos''). The charging letter alleged that Tatos committed five (5) violations of the Export Administration Regulations (currently codified at 15 CFR parts 730–74 (2005)) (''the Regulations''),[1] issued under the Export Administration Act of 1979, as amended.[2]

[1] The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 CFR parts 730–74 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

[2] Sections 50 U.S.C. 2401–2420 (2000) (hereinafter, ''the Act''). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which was extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under

Specifically, the charging letter alleged that Tatos violated the Denial Order imposed against Suburban Guns (Pty) Ltd. by placing an order on or about February 2, 2000, with a U.S. company for shotgun screw chokes, choke tubes, and other accessories, which were exported to Suburban Guns (Pty) Ltd. on or about March 1, 2000 (Charge 1). The charging letter also alleged that Tatos violated Suburban Guns (Pty) Ltd.'s Denial Order by placing an additional order on or about March 29, 2000, with a U.S. company for shotgun barrels and screw chokes, which were exported to Suburban Guns (Pty) Ltd. on or about March 30, 2000 (Charge 3). Pursuant to the Denial Order imposed against Suburban Guns (Pty) Ltd., Tatos was prohibited from facilitating the acquisition of any item subject to the Regulations that was exported or to be exported from the United States. See Action Affecting Export Privileges; Suburban Guns (Pty) Ltd., 63 FR 15828 (Apr. 1, 1998). The BIS charging letter also alleged that, in both exports described above, Tatos ordered and purchased the items with knowledge that violations of an Order issued under the Act and the Regulations would occur (Charges 2 and 4). Finally, the BIS charging letter alleged that, on or about October 28, 2004, Tatos made a false representation to an official of BIS in the course of a BIS investigation (Charge 5).

Section 766.3(b)(1) of the Regulations provides that notice of issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the resondent's last known address. In accordance with the Regulations, on January 28, 2005, BIS mailed the notice of issuance of a charging letter by certified mail to Tatos at: Phaedon Nicholas Criton Constan-Tatos (a.k.a. Fred Tatos), Suburban Guns (Pty) Ltd., 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa. BIS has submitted evidence that establishes that this charging letter was received by Suburban Guns (Pty) Ltd. on or about February 11, 2005. These actions constitute service under the Regulations.

Section 766.6(a) of the Regulations provides, in pertinent part, that ''[t]he respondent must answer the charging letter within thirty (30) days after being served with notice of issuance of the charging letter'' initiating the administrative enforcement proceeding. To date, Tatos has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in section 766.7 of the Regulations, I find the facts to be as alleged in the charging letter, and hereby determine that those facts establish Tatos committed two violations of section 764.2(e), one violation of section 764.2(g), and two violations of section 764.2(k) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (1) A monetary penalty; (2) suspension from practice before the Department of Commerce; and (3) denial of export privileges under the Regulations. See 15 CFR 764.3 (2005). Because Tatos knowingly violated the Regulations by violating the Denial Order imposed against Suburban Guns (Pty) Ltd. and made a false representation to an official of BIS in the course of the investigation of these circumstances, BIS requests that I recommend to the Undersecretary of Commerce for Industry and Security [3] that Suburban Guns (Pty) Ltd.'s export privileges be denied for five (5) years, and that I impose a civil penalty of fifty-five thousand dollars ($55,000).

BIS has suggested these sanctions because Tatos' actions, in twice violating a Denial Order imposed against Suburban Guns (Pty) Ltd., doing so with knowledge that a violation of the Regulations was occurring, and making a false representation to an official of BIS investigating these circumstances evidence a blatant disregard for U.S. export control laws. Further, BIS believes that denying Tatos' export privileges in this case is not a sufficient deterrent to Tatos, as evidenced by his willingness to violate the denial order in effect against Suburban Guns (Pty) Ltd. In light of these circumstances, BIS believes that appropriate action is the denial of Tatos' export privileges for five (5) years and a civil penalty of fifty-five thousand dollars ($55,000).

On this basis, I concur with BIS and recommend that the Under Secretary enter an Order denying Tatos' export privileges for a period of five (5) years and requiring Tatos to pay a civil penalty in the amount of fifty-five thousand dollars ($55,000). These penalties are consistent with penalties imposed in recent cases under the Regulations involving violations of denial orders. In the Matters of Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi, 41 Chamale Cove East, Slidell, Louisiana 70460, Respondents; Decision and Order, 69 FR 77.177 (Dec. 27, 2004) (affirming the ALJ's recommendations that a twenty year denial and maximum civil penalty of $11,000 per violation was appropriate where an individual exported oil field parts to Libya without authorization, in violation of the terms and conditions of a BIS order temporarily denying his export privileges and with knowledge that a violation would occur; and solicited a violation of the Regulations by ordering oil field parts from an equipment manufacturer located in the United States without authorization and with knowledge that a violation would occur). A five (5) year denial of Tatos' export privileges is warranted because Tatos' violations, like those of the defendants in the above-cited case, were deliberate acts in violation of an order denying export privileges.

Recommended Order—[Redacted]

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in section 766.7 of the Regulations.

Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary will issue a written order affirming, modifying or vacating the Recommended Decision and Order. See 15 CFR 766.22(c).

Done and dated this 21st day of September 2005, New York, NY.

Walter J. Brudzinski,
Administrative Law Judge, U.S. Coast Guard.

Certificate of Service

I hereby certify that I have served the foregoing *Recommended Decision and Order* by Federal Express to the following persons:

Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H–3839, 14th & Constitution Avenue, NW., Washington, DC 20230. Phone: 202–482–5301.

ALJ Docketing Center, Baltimore, 40 S. Gay Street, Room 412, Baltimore, Maryland 21202–4022. Phone: 410–962–7434.

the International Emergency Economic Powers Act (50 U.S.C. 1701–06 (2000)) (hereinafter, ''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

[3] Pursuant to section 13(c)(1) of the Export Administration Act and section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary's action is the final decision for the U.S. Commerce Department.

Done and dated this 21st day of September, 2005 at New York, NY.

Regina V. Thompson,
Paralegal Specialist, Assistant to the Administrative Law Judge.

[FR Doc. 05–22608 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[05–BIS–02]

In the Matter of: Suburban Guns (Pty) Ltd., 119 Main Road, Plumstead 7800, Cape Town, South Africa, Respondent

Decision and Order

This matter is before me upon a Recommended Decision and Order of an Administrative Law Judge (''ALJ''), as further described below.

In a charging letter filed on January 28, 2005, the Bureau of Industry and Security (''BIS'') alleged that respondent Suburban Guns (Pty) Ltd. (''Suburban Guns'') committed four violations of the Export Administration Regulations (the ''Regulations''),[1] issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. §§ 2401–2420 (2000)) (the ''Act'').[2] Specifically, BIS alleged that Suburban Guns committed two violations of section 764.2(a) and two violations of section 764.2(e) of the Regulations. The charging letter alleged that, in violation of a denial of export privileges imposed against it by BIS on April 1, 1998,[3] Suburban Guns placed two orders with U.S. companies for shotgun screw chokes, choke tubes, and barrels, which are classified under Export Control Classification Number (''ECCN'') 0A984, and for other shotgun accessories, which are designated as EAR99 items.[4] The charging letter further alleged that Suburban Guns committed these acts in violation of the Denial Order imposed against it with knowledge that a violation of an Order issued under the Act and the Regulations would occur.

BIS's charging letter was served by certified mail on Suburban Guns on January 28, 2005, and received on or about February 10, 2005. Suburban Guns did not file an answer to BIS's charging letter with the ALJ.

On August 4, 2005, BIS filed a Motion for Default with the ALJ, recommending that Suburban Guns be denied export privileges for a period of five years, beginning on July 25, 2007 when its current Denial Order expires, and that Suburban Guns be required to pay a $44,000 penalty. Thereafter, on September 21, 2005, based on the record before it, the ALJ issued a Recommended Decision and Order in which he found that Suburban Guns committed four violations of the Regulations and recommended the penalty proposed by BIS—denial of Suburban Guns' export privileges for five years, beginning on July 25, 2007, and imposition of a $44,000 penalty against Suburban Guns.

The ALJ's Recommended Decision and Order, together with the entire record in this case, has been referred to me for final action under section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law regarding the liability of Suburban Guns for the above-referenced charges. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations and the importance of preventing future unauthorized exports. Based on my review of the entire record, I affirm the findings of fact and conclusions of law in the ALJ's Recommended Decision and Order.

Accordingly, it is Therefore Order,

First, that a civil penalty of $44,000 is assessed against Suburban Guns, which shall be paid to the U.S. Department of Commerce within 30 days from the date of entry of this Order. Payment shall be made in the manner specified in the attached instructions.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owned under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due date specified herein, Suburban Guns will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that the timely payment of the civil penalty set forth above is hereby made a condition to the granting, restoration, or continuing validity of any export license, license exception, permission, or privileged granted, or to be granted, to Suburban Guns. Accordingly, if Suburban Guns should fail to pay the civil penalty in a timely manner, the undersigned may enter an Order denying all of Suburban Guns' export privileges for a period of one year from the date of entry of this Order.

Fourth, that, for a period of five years from July 25, 2007, the date of expiration of the Denial Order imposed against Suburban Guns in *Action Affecting Export Privileges; Suburban Guns (Pty) Ltd.,* 63, FR 15828 (Apr. 1, 1998), Suburban Guns (Pty) Ltd. 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa, and all of its successors or assigns, and, when acting for or on behalf of Suburban Guns, its officers, representatives, agents, and employees (''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Fifth, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership,

[1] The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations. 15 CFR parts 730–774 (2000). The 2005 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized by Public Law No. 106–508 (114 Stat. 2360 (2000)) and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 2, 2005 (70 FR 45273, Aug. 5, 2005), has continued the Regulations in effect under IEEPA.

[3] *Action Affecting Export Privileges; Suburban Guns (Pty) Ltd.,* 63 FR 15828 (Apr. 1, 1998).

[4] EAR99 is a designation for items subject to the Regulations but not listed on the Commerce Control List.

possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Sixth, that, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Seventh, that this Order does not prohibit any export, re-export or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Eighth, that this Order shall be served on the Respondent and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order, which constitutes the final agency section in this matter, is effective upon publication in the **Federal Register**.

Dated: October 20, 2005.

David H. McCormick,

Under Secretary for Industry and Security.

Department of Commerce

Bureau of Industry and Security

[Docket No. 05–BIS–02]

In the Matter of: Suburban Guns (Pty) Ltd., 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa, Respondent

Recommended Decision and Order

On January 28, 2005, the Bureau of Industry and Security, U.S. Department of Commerce (hereinafter, ''BIS''), issued a charging letter initiating this administrative enforcement proceeding against Suburban Guns (Pty) Ltd. The charging letter alleged that Suburban Guns (Pty) Ltd. committed four (4) violations of the Export Administration Regulations (currently codified at 15 CFR parts 730–74 (2005))(''the Regulations''),[1] issued under the Export Administration Act of 1979, as amended.[2]

Specifically, the charging letter alleged that Suburban Guns (Pty) Ltd. violated the Denial Order imposed against it by placing an order on or about February 2, 2000, with a U.S. company for shotgun screw chokes, choke tubes, and other accessories, which were exported to Suburban Guns (Pty) Ltd. on or about March 1, 2000 (Charge 1). The charging letter also alleged that Suburban Guns (Pty) Ltd. violated its Denial Order by placing an additional order on or about March 29, 2000, with a U.S. company for shotgun barrels and screw chokes, which were exported to Suburban Guns (Pty) Ltd. on or about March 30, 2000 (Charge 3). Pursuant to the Denial Order imposed against it, Suburban Guns (Pty) Ltd. was prohibited from participating in any transaction involving any item subject to the Regulations that was exported or to be exported from the United States. *See Action Affecting Export Privileges; Suburban Guns (Pty) Ltd.,* 63 FR 15828 (Apr. 1, 1998). The BIS charging letter also alleged that, in both exports described above, Suburban Guns (Pty) Ltd. ordered and purchased the items with knowledge that violations of an Order issued under the Act and the Regulations would occur (Charges 2 and 4).

Section 766.3(b)(1) of the Regulations provides that notice of issuance of a charging letter shall be served on a respondent by mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address. In accordance with the Regulations, on January 28, 2005, BIS mailed the notice of issuance of a charging letter by certified mail to Suburban Guns (Pty) Ltd. at: Suburban Guns (Pty) Ltd., 119 Main Road, P.O. Box 30, Plumstead 7800, Cape Town, South Africa. BIS has submitted evidence that establishes that this charging letter was received by Suburban Guns (Pty) Ltd. on or about February 10, 2005. These actions constitute service under the Regulations.

Section 766.6(a) of the Regulations provides, in pertinent part, that ''[t]he respondent must answer the charging letter within thirty (30) days after being served with notice of issuance of the charging letter'' initiating the administrative enforcement proceeding. To date, Suburban Guns (Pty) Ltd. has not filed an answer to the charging letter.

Pursuant to the default procedures set forth in section 766.7 of the Regulations, I find the facts to be as alleged in the charging letter, and hereby determine that those facts establish that Suburban Guns (Pty) Ltd. committed two violations of section 764.2(e), one violation of section 764.2(g), and two violations of section 764.2(k) of the Regulations.

Section 764.3 of the Regulations sets forth the sanctions BIS may seek for violations of the Regulations. The applicable sanctions are: (1) A monetary penalty; (2) suspension from practice before the Department of Commerce; and (3) denial of export privileges under the Regulations. *See* 15 CFR 764.3 (2005). Because Suburban Guns (Pty) Ltd. knowingly violated the Regulations by violating the Denial Order imposed against it, BIS requests that I recommended to the Undersecretary of Commerce for Industry and Security[3] that Suburban Guns (Pty) Ltd.'s export privileges be denied for five (5) years, beginning on July 25, 2007, when its current Denial Order, issued pursuant to section 11(h) of the Export Administration Act expires, and that I imposes to a civil penalty of forty-four thousand dollars ($44,000).

BIS has suggested these sanctions because Suburban Guns (Pty) Ltd.'s actions, in twice violating a Denial Order imposed against it, doing so with knowledge that a violation of the Regulations was occurring evidence a blatant disregard for U.S. export control laws. Further, BIS believes that denying Suburban Guns (Pty) Ltd.'s export privileges in this case is not a sufficient deterrent to Suburban Guns (Pty) Ltd.'s, as evidenced by its willingness to violate the denial order in effect against it. In light of these circumstances, BIS believes that appropriate

[1] The charged violations occurred in 2000. The Regulations governing the violations at issue are found in the 2000 version of the Code of Federal Regulations (15 CFR parts 730–74 (2000)). The 2005 Regulations establish the procedures that apply to this matter.

[2] 50 U.S.C. §§ 2401–2420 (2000) (hereinafter, ''the Act''). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which was extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–06 (2000)) (hereinafter, ''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 2, 2005 (70 FR 45273 (August 5, 2005)), has continued the Regulations in effect under IEEPA.

[3] Pursuant to section 13(c)(1) of the Export Administration Act and section 766.17(b)(2) of the Regulations, in export control enforcement cases, the Administrative Law Judge makes recommended findings of fact and conclusions of law that the Under Secretary must affirm, modify or vacate. The Under Secretary's action is the final decision for the U.S. Commerce Department.

section is the denial of Suburban Guns (Pty) Ltd.'s export privileges for five (5) years and a civil penalty of forty-four thousand dollars ($44,000).

On this basis, I concur with BIS and recommend that the Under Secretary enter an Order denying Suburban Guns (Pty) Ltd.'s export privileges for a period of five (5) years and requiring Suburban Guns (Pty) Ltd. to pay a civil penalty in the amount of forty-four thousand dollars ($44,000). These penalties are consistent with penalties imposed in recent cases under the Regulations involving violations of denial orders. *In the Matters of Yaudat Mustafa Talyi a.k.a. Yaudat Mustafa a.k.a. Joseph Talyi, 41 Chamale Cove East, Slidell, Louisiana, 70460, Respondents; Decision and Order,* 69 FR 77177 (Dec. 27, 2004) (affirming the ALJ's recommendations that a twenty year denial and maximum civil penalty of $11,000 per violation was appropriate where an individual exported oil field parts to Libya without authorization, in violation of the terms and conditions of a BIS order temporarily denying his export privileges and with knowledge that a violation would occur; and solicited a violation of the Regulations by ordering oil field parts from an equipment manufacturer located in the United States without authorization and with knowledge that a violation would occur). A five (5) year denial of Suburban Guns (Pty) Ltd.'s export privileges is warranted because Suburban Guns (Pty) Ltd.'s violations, like those of the defendants in the above-cited case, were deliberate acts in violation of an order denying export privileges.

Recommended Order—[Redacted]

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the respondent, as provided in section 766.7 of the Regulations.

Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary will issue a written order affirming, modifying or vacating the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Done and dated this 21st day of September, 2005.

Walter J. Brudzinski,
Administrative Law Judge, U.S. Coast Guard.

Certificate of Service

I hereby certify that I have served the foregoing *Recommended Decision & Order* by Federal Express to the following persons:

Under Secretary for Export Administration, Bureau of Industry and Security, U.S. Department of Commerce, Room H–3839, 14th & Constitution Avenue, NW., Washington, DC 20230. Phone: 202–482–5301.

ALJ Docketing Center, Baltimore, 40 S. Gay Street, Room 412, Baltimore, Maryland 21202–4022. Phone: 410–962–7434.

Done and dated this 21st day of September, 2005. New York, NY.

Regina V. Thompson,
Paralegal Specialist, Assistant to the Administrative Law Judge.

[FR Doc. 05–22607 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Notice of Correction to Amended Final Results of Antidumping Duty Administrative Review: Ball Bearings and Parts Thereof from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On October 21, 2005, the Department of Commerce published in the **Federal Register** the amended final results of the administrative review of the antidumping duty order on ball bearings and parts thereof from Japan. The period of review is May 1, 2003, through April 30, 2004. Based on the correction of a certain ministerial error, we have changed the margin for Nippon Pillow Block Co., Ltd., for the administrative review of ball bearings and parts thereof from Japan.

EFFECTIVE DATE: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Richard Rimlinger, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5760 or (202) 482–4477, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 21, 2005, the Department of Commerce (the Department) published in the **Federal Register** the amended final results of the administrative review of the antidumping duty order on ball bearings and parts thereof (ball bearings) from Japan covering the period May 1, 2003, through April 30, 2004 (70 FR 61252) (*Amended Final Results Notice*).

We received a timely allegation of a ministerial error from Nippon Pillow Block Co., Ltd (NPB). In its comments dated October 26, 2005, NPB alleged that the Department released a correct amended margin percentage for NPB in the Department's October 14, 2005, amended final analysis memorandum but published an incorrect amended margin percentage for NPB in the *Amended Final Results Notice*. The petitioner did not comment on the alleged ministerial error.

We agree with NPB that the published margin was incorrect. We are now issuing the correct amended margin percentage for NPB in this notice.

Amended Final Results of Review

As a result of the correction of a clerical error, the weighted–average margin for exports of ball bearings by NPB for the period May 1, 2003, through April 30, 2004, is 15.51 percent.

The Department will determine and the U.S. Bureau of Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries. We will issue appropriate assessment instructions directly to CBP within 15 days of publication of these amended final results of review. Where the importer-/customer–specific assessment rate or amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or for that customer.

We will also direct CBP to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in *Ball Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews*, 70 FR 54711 (September 16, 2005), and at the rate as amended by this notice. The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date these amended final results are published in the **Federal Register**.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR § 351.224(e).

Dated: November 8, 2005.

Stephen J. Claeys,
Acting Assistant Secretary for Import Administration.

[FR Doc. E5–6302 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine from the People's Republic of China; Continuation of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (''the Department'') and the International Trade Commission (''ITC'') that revocation of the antidumping duty

order on glycine from the People's Republic of China (''PRC'') would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing this notice of continuation of this antidumping duty order.

EFFECTIVE DATE: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: Maureen Flannery, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3020.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2005, the Department initiated and the ITC instituted a sunset review of the antidumping duty order on glycine from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). *See Initiation of Five-year (''Sunset'') Reviews*, 70 FR 31423 (June 1, 2005), and ITC Investigation No. 731–TA–718 (Second Review), Glycine from China, 70 FR 31534 (June 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the ITC of the magnitude of the margins likely to prevail were the order to be revoked. *See Glycine from the People's Republic of China; Final Results of the Expedited Sunset Review of the Antidumping Duty Order*, 70 FR 58185 (October 5, 2005). On October 31, 2005, the ITC determined, pursuant to sections 751(c) and 752 of the Act, that revocation of the antidumping duty order on glycine from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Scope of the Order

The product covered by the order is glycine, which is a free–flowing crystalline material, like salt or sugar. Glycine is produced at varying levels of purity and is used as a sweetener/taste enhancer, a buffering agent, reabsorbable amino acid, chemical intermediate, and a metal complexing agent. This order covers glycine of all purity levels. Glycine is currently classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States (''HTSUS''). In a separate scope ruling, the Department determined that D(-) Phenylglycine Ethyl Dane Salt is outside the scope of the order. *See Notice of Scope Rulings and Anticircumvention Inquiries*, 62 FR 62288 (November 21, 1997). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Determination

As a result of the determinations by the Department and the ITC that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on glycine from the PRC. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than October 2010.

This five-year (sunset) review and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: November 7, 2005.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E5–6300 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–828]

Certain Hot–Rolled Carbon Steel Flat Products from Brazil: Notice of Final Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has determined that the antidumping duty administrative review for the period March 1, 2004, through February 28, 2005, of Companhia Siderurgica Nacional (CSN) and Companhia Siderurgica de Tubarao (CST) should be rescinded.

EFFECTIVE DATE: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Kristin Najdi, Office 7, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0405 and (202) 482–8221, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products from Brazil for the period of review (POR) of March 1, 2004, through February 28, 2005. *See Notice of Opportunity to Request Administrative Review of Antidumping Duty Order, Finding or Suspended Investigation*, 70 FR 9918 (March 1, 2005). On March 31, 2005, United States Steel Corporation (USSC) and Nucor Corporation (Nucor), domestic producers of the subject merchandise, made timely requests that the Department conduct an administrative review of CSN and CST. On April 22, 2005, in accordance with section 751(a) of the Tariff Act of 1930 as amended (the Act), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review. *See Notice of Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews*, 70 FR 20862 (April 22, 2005). On April 28, 2005, the Department issued its antidumping duty questionnaire to CSN and CST. Both CSN and CST requested rescission of this administrative review, CSN certifying that there were no shipments or entries of subject merchandise during the POR, and CST certifying that the only shipments or entries it had during the POR were being reviewed by the Department as part of a new shipper review. On October 7, 2005, after conducting an internal customs data query to confirm these certifications, the Department published in the **Federal Register** its notice of intent to rescind this administrative review, and invited comments from interested parties. *See Certain Hot–Rolled Carbon Steel Flat Products from Brazil: Notice of Intent to Rescind Administrative Review*, 70 FR 58680 (October 7, 2005) (*Notice of Intent to Rescind*). The Department did not receive comments from any interested party.

Scope of the Order

For purposes of this order, the products covered are certain hot–rolled flat–rolled carbon–quality steel products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor

coated with metal and whether or not painted, varnished, or coated with plastics or other non–metallic substances, in coils (whether or not in successively superimposed layers) regardless of thickness, and in straight lengths, of a thickness less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this order.

Specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial–free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro–alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro–alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro–alloying levels of elements such as silicon and aluminum.

Steel products to be included in the scope of this order, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.012 percent of boron, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent of zirconium.

All products that meet the physical and chemical description provided above are within the scope of this order unless otherwise excluded. The following products, by way of example, are outside and/or specifically excluded from the scope of this order:

• Alloy hot–rolled steel products in which at least one of the chemical elements exceeds those listed above (including *e.g.*, ASTM specifications A543, A387, A514, A517, and A506).

• SAE/AISI grades of series 2300 and higher.

• Ball bearing steels, as defined in the HTSUS.

• Tool steels, as defined in the HTSUS.

• Silico–manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 1.50 percent.

• ASTM specifications A710 and A736.

• USS Abrasion–resistant steels (USS AR 400, USS AR 500).

• Hot–rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10– 0.14%	0.90% Max	0.025% Max	0.005% Max	0.30-0.50%	0.30-0.50%	0.20-0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.063–0.198 inches; Yield Strength = 50,000 ksi minimum; Tensile Strength = 70,000–88,000 psi.

• Hot–rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10– 0.16% Mo. 0.21%. Max.	0.70 - 0.90%	0.025% Max	0.006% Max	0.30 - 0.50%	0.30 - 0.50%	0.25% Max	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

• Hot–rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.10– 0.14% V(wt) 0.10% Max	1.30 - 1.80% Cb 0.08% Max	0.025% Max	0.005% Max	0.30 - 0.50%	0.50 - 0.70%	0.20 - 0.40%	0.20% Max

Width = 44.80 inches maximum; Thickness = 0.350 inches maximum; Yield Strength = 80,000 ksi minimum; Tensile Strength = 105,000 psi Aim.

• Hot–rolled steel coil which meets the following chemical, physical and mechanical specifications:

C	Mn	P	S	Si	Cr	Cu	Ni
0.15% Max Nb	1.40% Max Ca	0.025% Max Al	0.010% Max	0.50% Max	1.00% Max	0.50% Max	0.20% Max

C	Mn	P	S	Si	Cr	Cu	Ni
0.005% Min	Treated -	0.01 - 0.70%					

Width = 39.37 inches; Thickness = 0.181 inches maximum; Yield Strength = 70,000 psi minimum for thickness # 0.148 inches and 65,000 psi minimum for ''thicknesses'' > 0.148 inches; account for 64 FR 38650; Tensile Strength = 80,000 psi minimum.

• Hot–rolled dual phase steel, phase–hardened, primarily with a ferritic–martensitic microstructure, contains 0.9 percent up to and including 1.5 percent silicon by weight, further characterized by either (i) tensile strength between 540 N/mm² and 640 N/mm² and an elongation percentage ≥ 26 percent for thicknesses of 2 mm and above, or (ii) a tensile strength between 590 N/mm² and 690 N/mm² and an elongation percentage ≥ 25 percent for thicknesses of 2 mm and above.

• Hot–rolled bearing quality steel, SAE grade 1050, in coils, with an inclusion rating of 1.0 maximum per ASTM E 45, Method A, with excellent surface quality and chemistry restrictions as follows: 0.012 percent maximum phosphorus, 0.015 percent maximum sulfur, and 0.20 percent maximum residuals including 0.15 percent maximum chromium.

• Grade ASTM A570–50 hot–rolled steel sheet in coils or cut lengths, width of 74 inches (nominal, within ASTM tolerances), thickness of 11 gauge (0.119 inch nominal), mill edge and skin passed, with a minimum copper content of 0.20%.

The merchandise subject to this order is classified in the HTSUS at subheadings: 7208.10.15.00, 7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, 7211.19.75.90, 7212.40.10.00, 7212.40.50.00, 7212.50.00.00. Certain hot–rolled flat–rolled carbon–quality steel covered by this order, including: vacuum degassed, fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under this order is dispositive.

Rescission of Administrative Review

On October 7, 2005, the Department published in the **Federal Register** its intent to rescind the administrative review. As noted above, CSN certified that it did not have any shipments or entries of subject merchandise during the POR and CST certified that the only shipments or entries of subject merchandise it had during the POR were being reviewed by the Department as part of a new shipper review of CST for the period March 1, 2004, through August 31, 2004. *See Notice of Intent to Rescind.* The Department conducted an internal customs data query to confirm that CSN had no entries of subject merchandise into the United States during the POR, and that CST had no entries of subject merchandise other than those already being reviewed as part of the new shipper review. The customs data showed no entries of subject merchandise by CSN during the POR, and no additional entries by CST that should be reviewed. We invited interested parties to comment on our intent to rescind the administrative review; no comments were submitted.

Therefore, in accordance with 19 CFR 351.213(d)(3), we are rescinding this review for CSN based on our determination that this company did not have entries of subject merchandise during the POR. Pursuant to 19 CFR 315.214(j), we are rescinding this review for CST because any entries of subject merchandise during the POR are already being reviewed by the Department as part of a new shipper review. This review was requested for only these two companies.

We are issuing this notice in accordance with section 751(a)(1) of the Act and19 CFR 351.213(d)(4).

Dated: November 8, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6299 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–820]

Notice of Extension of Time Limit for Preliminary Results in Antidumping Duty Administrative Review: Stainless Steel Bar From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: David Goldberger at (202) 482–4136, or Roberto Facundus at (202) 482–3464, Import Administration, AD/CVD Operations, Office 2, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

Extension of Time Limits for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall make a preliminary determination in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245–day period to up to 365 days if it determines it is not practicable to complete the review within the foregoing time period.

The preliminary results of the administrative review of the antidumping duty order on stainless steel bar from France are currently scheduled to be completed on December 1, 2005. However, the Department finds that it is not practicable to complete the preliminary results in this administrative review within this time limit because additional time is needed to fully analyze the complex issues raised in the questionnaire responses and supplemental questionnaire responses submitted by the respondent.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the preliminary results of this review by 43 days to January 13, 2006. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: November 7, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6298 Filed 11–14–05; 8:45 am]

Billing Code: 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–825]

Polyethylene Terephthalate Film, Sheet and Strip from India: Extension of Time Limit for Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Drew Jackson, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2769 or (202) 482–4406, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 2004, the Department of Commerce (the Department) published in the **Federal Register** a notice of initiation of an administrative review of the countervailing duty order on polyethylene terephthalate film, sheet and strip from India, covering the period January 1, 2003, through December 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 69 FR 52857 (August 30, 2004).

On August 10, 2005, the Department published in the **Federal Register** the preliminary results of review. *See Notice of Preliminary Results and Rescission in Part of Countervailing Duty Administrative Review: Polyethylene Terephthalate Film, Sheet and Strip From India*, 70 FR 46483 (August 10, 2005). The final results of review are currently due no later than December 8, 2005.

Extension of Time Limit for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

We have determined that it is not practicable to complete the final results of this review within the original time limit because the Department has required additional time to consider a number of complex issues involving certain sales tax incentive programs. Therefore, the Department is extending the time limit for completion of the final results of review by 60 days. We intend to issue the final results of review no later than February 6, 2006.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 8, 2005.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E5–6301 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

President's Export Control: Meeting of the President's Export Council

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The President's Export Council (PEC) will hold a full Council meeting to discuss topics related to export expansion. The meeting will include discussion of trade priorities and initiatives, PEC subcommittee activity and proposed letters of recommendation. The PEC was established on December 20, 1973, and reconstituted May 4, 1979, to advise the President on matters relating to U.S. trade. It was most recently renewed by Executive Order 13385.

DATES: December 6, 2005.

Time: 10:15 a.m. to 12 noon (e.s.t.).

ADDRESSES: Room G–50, Dirksen Senate Office Building, Washington, DC 20510. This program will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be submitted no later than November 30, 2005, to J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202–482–1124, *Marc.Chittum@mail.doc.gov*. Seating is limited and will be on a first come, first served basis.

FOR FURTHER INFORMATION CONTACT: J. Marc Chittum, President's Export Council, Room 4043, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone: 202–482–1124, *Marc.Chittum@mail.doc.gov*, or visit the PEC Web site, *http://www.ita.doc.gov/td/pec*.

Dated: November 10, 2005.

J. Marc Chittum,

Executive Secretary and Staff Director, President's Export Council.

[FR Doc. 05–22707 Filed 11–14–05; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Department of the Army

Preparation of the Fort Bliss, TX and New Mexico, Mission Master Plan Supplemental Programmatic Environmental Impact Statement

AGENCY: Department of the Army, DOD.

ACTION: Notice of intent.

SUMMARY: This announces the intention of United States Army Installation Management Agency and the Fort Bliss Garrison Command to prepare a Supplemental Programmatic Environmental Impact Statement (SEIS) to analyze the impacts of land use changes in support of Army Transformation, the Army Campaign Plan, and other Army initiatives. The SEIS will supplement the *Fort Bliss, Texas and New Mexico, Mission Master Plan Programmatic Environmental Impact Statement,* for which a Record of Decision was signed in 2001. The proposed action will provide Fort Bliss with greater flexibility in planning and developing training missions and strategies in response to rapidly changing world conditions, Army Transformation initiatives, and long-

term Army planning. The SEIS will evaluate land use changes in the Tularosa Basin portions of McGregor Range and the South Training Areas.

DATES: A Draft SEIS is scheduled for publication on or about June 2006 and a Final SEIS on or about December 2006.

ADDRESSES: Written comments should be forwarded to: John F. Barrera, Attn: SEIS; IMSW–BLS–Z; Fort Bliss, TX 79916–6812; or faxed to (915) 568–3548, or e-mailed at *seis@bliss.army.mil.*

FOR FURTHER INFORMATION CONTACT: Jean Offutt, Fort Bliss Public Affairs Office; ATZC–CGP; Fort Bliss, Texas, 79916–6812; Tel: (915) 568–4505.

SUPPLEMENTARY INFORMATION: The SEIS will assess the environmental impacts associated with Fort Bliss' response to Army Transformation initiatives and the Army Campaign Plan. Potential impacts or issues of Army Transformation at Fort Bliss were analyzed by the Department of the Army in the 2002 Programmatic EIS for Army Transformation. Implementation of these plans will results in changing land use designations within the Main Cantonment and Biggs Army Airfield, and the lower Tularosa Basin (below Otero Mesa) portions of McGregor Range and the South Training Areas. These changes would provide the capabilities to train additional units and allow off-road maneuvers on the Tularosa Basin portions of McGregor Range. Fort Bliss will maintain current mobilization missions and continue to support joint training objectives.

Besides the No Action Alternative (no change to land use designations and continuance at the current level of operations and activities), the proposed action alternatives will:

(1) Include those activities described in the No Action Alternative, plus changes land use to allow Mission Support Facilities in Training Area (TA) 1B, and off-road maneuver in TA 11, 25, and 29 thru 32; and increased air defense training on Otero Mesa;

(2) include actions of Alternative 1, plus changes land use to also allow off-road maneuvers in TA 10, 11, 29 and the Tularosa Basin portion of TA 12; and

(3) include actions of Alternative 2, plus changes land use to also allow off-road maneuvers and weapons firing in TA 24, 26 and 27.

The SEIS will include evaluation of each alternative's varying personnel and equipment requirements for range and maneuver training; supporting command, training and maintenance facilities, soldier and family housing, schools, infrastructure, utilities and related facilities. The SEIS will also analyze each alternative's impact upon the natural, cultural, and man-made environments in the west Texas and southern New Mexico region.

Tribes, Federal, state, and local agencies and the public are invited to participate in the scoping process for the preparation of this SEIS. Scoping meetings will be held in convenient locations near the installation. Notification of the times and locations for the scoping meetings will be published in local newspapers. The scoping process will help identify additional possible alternatives, potential environmental impacts, and key issues of concern to be analyzed in the SEIS. To ensure scoping comments are fully considered in the Draft EIS, comments and suggestions should be received within the 30-day scoping period or no later than 15 days following the last scoping meeting, whichever ends last.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–22602 Filed 11–14–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Low Cost Parachute

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,959,897 B2 entitled ''Low Cost Parachute'' issued November 1, 2005. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 or e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–22601 Filed 11–14–05; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Chief of Engineers Environmental Advisory Board; Meeting

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the forthcoming meeting. The meeting is open to the public.

Name of Committee: Chief of Engineers Environmental Advisory Board (EAB).

Date: December 1, 2005.

Location: Embassy Suites Hotel Orlando—Airport, 5835 T.G. Lee Boulevard, Orlando, FL, (407) 888–9339 or (800) 362–2669.

Time: 9 a.m. to 12 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Norman Edwards, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000; Ph: 202–761–1934.

SUPPLEMENTARY INFORMATION: The Board advises the Chief of Engineers on environmental policy, identification and resolution of environmental issues and missions, and addressing challenges, problems and opportunities in an environmentally substainable manner. The public meeting will focus on general issues of national significance rather than on individual project or region related topics. Time will be provided for public comment. Each speaker will be limited to no more than three minutes in order to accommodate as many people as possible within the limited time available.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 05–22600 Filed 11–14–05; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Overview Information; National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program—Advanced Rehabilitation Research Training (ARRT) Projects; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2006

Catalog of Federal Domestic Assistance (CFDA) Number: 84.133P

Dates:

Applications Available: November 15, 2005.

Deadline for Transmittal of Applications: January 17, 2006.

Eligible Applicants: Institutions of higher education (IHEs).

Estimated Available Funds: $150,000. The Administration has requested $150,000 for this program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Maximum Award: We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: Indirect cost reimbursement on a training grant is limited to eight percent of a modified total direct cost base, defined as total direct costs less stipends, tuition, and related fees.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of this program is to provide research training and experience at an advanced level to individuals with doctorates or similar advanced degrees who have clinical or other relevant experience. ARRT projects train rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act of 1973, as amended (Act), and that improve the effectiveness of services authorized under the Act.

Program Requirements: ARRT projects must carry out all of the following activities—(1) Recruit and select candidates for advanced research training; (2) Provide a training program that includes didactic and classroom instruction, is multidisciplinary, emphasizes scientific methodology, and may involve collaboration among institutions; (3) Provide research experience, laboratory experience, or its equivalent in a community-based research setting, and a practicum that involves each individual in clinical research and in practical activities with organizations representing individuals with disabilities; (4) Provide academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions; and (5) Provide opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings, as appropriate for the individual's field of study and level of experience.

Furthering the employment of individuals with disabilities is a critical part of NIDRR's mission. For this reason, applicants for funding under this program must target advanced rehabilitation research training that will enable scientists to improve employment outcomes of individuals with disabilities. This may include, but is not limited to, methods in areas such as econometrics, labor force analysis, workforce development, and vocational rehabilitation strategies.

It is expected that applicants will articulate goals, objectives, and expected outcomes for the proposed capacity building activities. Applicants should describe expected public benefits, especially benefits for individuals with disabilities, and propose projects designed to demonstrate outcomes that are consistent with the proposed goals. Applicants are encouraged to include information describing how they will measure outcomes, including the indicators that will represent the end-result. Submission of this information is voluntary except where required by the selection criteria listed in the application package.

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/infocus/newfreedom/.*

The ARRT projects are in concert with NIDRR's proposed Long-Range Plan (Plan) published in the **Federal Register** on July 27, 2005 (70 FR 43522). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections in the Plan that support potential research to be conducted under these program requirements, the specific reference to the program requirements is in Part C, Chapter I, Section A Employment. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister/other/2005–3/072705d.html.*

Through the implementation of the Plan, NIDRR seeks to—(1) Improve the quality and utility of disability and rehabilitation research; (2) Foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) Determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) Identify research gaps; (5) Identify mechanisms of integrating research and practice; and (6) Disseminate findings.

Program Authority: 29 U.S.C. 762(k).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 81, 82, 84, 85, 86, and 97. (b) The regulations for this program in 34 CFR part 350.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $150,000. The Administration has requested $150,000 for this program for FY 2006. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Maximum Award: We will reject any application that proposes a budget exceeding $150,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: Indirect cost reimbursement on a training grant is limited to eight percent of a modified total direct cost base, defined as total direct costs less stipends, tuition, and related fees.

Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs.

2. *Cost Sharing or Matching:* This program does not involve cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application Package:* You may obtain an application package via Internet or from the ED Publications Center (ED Pubs). To obtain a copy via Internet use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write or call the following: Education Publications Center (ED Pubs), P.O. Box

1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA Number 84.133P.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 75 pages, using the following standards:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text in the application narrative. Single spacing may be used for titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

• Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

3. *Submission Dates and Times:*

Applications Available: November 15, 2005.

Deadline for Transmittal of Applications: January 17, 2006.

Applications for grants under this competition may be submitted electronically using the Electronic Grant Application System (e-Application) accessible through the Department's e-Grants system, or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

If you choose to submit your application to us electronically, you must use e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of a grant application to us.

Please note the following:

• Your participation in e-Application is voluntary.

• You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424), Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. If you choose to submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to print a copy of it for your records.

• After you electronically submit your application, you will receive an automatic acknowledgment that will include a PR/Award number (an identifying number unique to your application).

• Within three working days after submitting your electronic application, fax a signed copy of the ED 424 to the Application Control Center after following these steps:

(1) Print ED 424 from e-Application.

(2) The applicant's Authorizing Representative must sign this form.

(3) Place the PR/Award number in the upper right hand corner of the hard-copy signature page of the ED 424.

(4) Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from electronically submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day to enable you to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) You are a registered user of e-Application and you have initiated an electronic application for this competition; and

(2) (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time between 3:30 p.m. and 4:30 p.m.,

Washington, DC time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgment of any system unavailability, you may contact either (1) the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, an e-mail will be sent to all registered users who have initiated an e-Application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgment of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number 84.133P), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133P), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424 the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 350.54 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

Note: NIDRR will provide information by letter to grantees on how and when to submit the report.

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through reviews of grantee activities, performance, and products. The performance measures for this project include the following:

- The number of former pre- and postdoctoral students and fellows who received research training supported by NIDRR who are actively engaged in conducting high-quality research and demonstration projects.
- The percentage of NIDRR-supported fellows, postdoctoral trainees, and doctoral students who publish results of NIDRR-sponsored research in refereed journals.

NIDRR uses information submitted by grantees as part of their Annual Performance Reports (APR) for these reviews. NIDRR also determines, using information submitted as part of the APR, the number of publications in refereed journals that are based on NIDRR-funded research and development activities.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *http://www.ed.gov/offices/OUS/PES/planning.html.*

Updates on the Government Performance and Results Act (GPRA) indicators, revisions and methods appear in the NIDRR Program Review Web site: *http://www.neweditions.net/pr/commonfiles/pmconcepts.htm#gpra.*

Grantees should consult these sites, on a regular basis, to obtain details and explanations on how NIDRR programs contribute to the advancement of the Department's long-term and annual performance goals.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 6030, Potomac Center Plaza, Washington, DC 20202. Telephone: (202) 245–7462 or by e-mail: *donna.nangle@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 245–7317 or the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: November 8, 2005.

John H. Hager,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 05–22634 Filed 11–14–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–83–000]

Cheyenne Plains Gas Pipeline Company, L.L.C.; Notice of Tariff Filing

November 8, 2005.

Take notice that on November 1, 2005, Cheyenne Plains Gas Pipeline Company, LLC (Cheyenne Plains) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 109, with an effective date of December 1, 2005.

Cheyenne Plains states that the tariff sheet implements the pro forma sheet previously approved in this proceeding which expands the definition of ''Initial Shipper.''

Cheyenne Plains states that copies of its filing have been sent to all parties of record in this proceeding and affected state commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6291 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–069]

Dominion Transmission, Inc.; Notice of Negotiated Rates

November 8, 2005.

Take notice that on November 3, 2005, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Second Revised Sheet No. 1415, to become effective December 1, 2005.

DTI states that the purpose of this filing is to report an amendment to a negotiated rate transaction between DTI and Dominion Field Services, Inc., as pool operator for Penn Virginia Oil & Gas Corporation.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6283 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–82–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

November 8, 2005.

Take notice that on November 4, 2005, El Paso Natural Gas Company (EPNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, First Revised Original Sheet No. 137, to become effective December 5, 2005.

EPNG states that the tariff sheet provides for the mutually agreeable extension of a Rate Schedule PAL service agreement when a balance remains in the account.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6290 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP06–12–000 CP06–13–000 CP06–14–000]

Gulf LNG Energy, LLC , Gulf LNG Pipeline, LLC; Notice of Application

November 7, 2005.

Take notice that on October 28, 2005, Gulf LNG Energy LLC (Gulf LNG), 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, filed in Docket No. CP06–12–000, an application pursuant to section 3 of the Natural Gas Act (NGA) for authorization to site, construct, and operate: (1) An LNG receiving facility, including docking facilities and associated piping appurtenances; and (2) an LNG storage and vaporization facility, including 2 LNG storage tanks, vaporization units and associated piping and control equipment (collectively, the Terminal), to import liquefied natural gas (LNG) into the United States. The proposed site is located in Jackson County, Mississippi.

Also, take notice that on October 28, 2005, Gulf LNG Pipeline, LLC (GLP), 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, filed in Docket Nos. CP06–13–000 and CP06–14–000, an application pursuant to section 7 of the NGA and part 157 of the Commission's regulations, for authorization to construct, own and operate the Gulf LNG Pipeline, a 5.02 mile 36-inch diameter pipeline to connect the Terminal to three delivery points in Jackson County, Mississippi. In addition, GLP requests authorization under Part 157, Subpart F for a blanket certificate, and a waiver of the Commission's requirements with respect to the filing of a Pro Forma Tariff and proposed initial rates for service. The proposed facilities will have a peak deliverability of approximately 1.5 Bcf/day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application may be directed to John M. McCutchen, Gulf LNG Energy, LLC, 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, (228) 762–1762, or Erik Swenson, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, (404) 572–3540.

On December 16, 2004, the Commission staff granted Gulf LNG's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF05–5–000 to staff activities involving Gulf LNG Energy. Now, as of the filing of Gulf LNG's and GLP's application on October 28, 2005, the NEPA Pre-Filing Process for this project has ended. From this time forward, Gulf LNG's and GLP's proceeding will be conducted in Docket Nos. CP06–12–000, CP06–13–000, and CP06–14–000, as noted in the caption of this Notice.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be

taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: November 28, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6277 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application

November 7, 2005.

Gulf LNG Energy, LLC

[Docket No. CP06–12–000]

Gulf LNG Pipeline, LLC

[Docket No. CP06–13–000, CP06–14–000]

Take notice that on October 28, 2005, Gulf LNG Energy LLC (Gulf LNG), 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, filed in Docket No. CP06–12–000, an application pursuant to section 3 of the Natural Gas Act (NGA) for authorization to site, construct, and operate: (1) An LNG receiving facility, including docking facilities and associated piping appurtenances; and (2) an LNG storage and vaporization facility, including 2 LNG storage tanks, vaporization units and associated piping and control equipment (collectively, the Terminal), to import liquefied natural gas (LNG) into the United States. The proposed site is located in Jackson County, Mississippi.

Also, take notice that on October 28, 2005, Gulf LNG Pipeline, LLC (GLP), 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, filed in Docket Nos. CP06–13–000 and CP06–14–000, an application pursuant to section 7 of the NGA and Part 157 of the Commission's regulations, for authorization to construct, own and operate the Gulf LNG Pipeline, a 5.02 mile 36-inch diameter pipeline to connect the Terminal to three delivery points in Jackson County, Mississippi. In addition, GLP requests authorization under Part 157, Subpart F for a blanket certificate, and a waiver of the Commission's requirements with respect to the filing of a Pro Forma Tariff and proposed initial rates for service. The proposed facilities will have a peak deliverability of approximately 1.5 Bcf/day, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application may be directed to John M. McCutchen, Gulf LNG Energy, LLC, 1407 Jackson Ave, Suite 2, Pascagoula, MS 39567, (228) 762–1762, or Erik Swenson, King & Spalding LLP, 1185 Avenue of the Americas, New York, NY 10036, (404) 572–3540.

On December 16, 2004, the Commission staff granted Gulf LNG's request to utilize the National Environmental Policy Act (NEPA) Pre-Filing Process and assigned Docket No. PF05–5–000 to staff activities involving Gulf LNG Energy. Now, as of the filing of Gulf LNG's and GLP's application on October 28, 2005, the NEPA Pre-Filing Process for this project has ended. From this time forward, Gulf LNG's and GLP's proceeding will be conducted in Docket Nos. CP06–12–000, CP06–13–000, and CP06–14–000, as noted in the caption of this Notice.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the below listed comment date, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Motions to intervene, protests and comments may be filed electronically via the internet in lieu of paper; see, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The

Commission strongly encourages electronic filings.

Comment Date: November 28, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6282 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER05–1358–002]

KGen Hinds LLC; Notice of Filing

November 8, 2005.

Take notice that on October 31, 2005, KGen Hinds LLC (Hinds), under protest, tendered for filing a Conditional Notice of Cancellation of its Rate Schedule FERC No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: CP06–14–000 on November 21, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6284 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2458–004]

Midwest Independent Transmission System Operator, Inc.; Notice of Compliance Filing

November 8, 2005.

Take notice that on October 31, 2005, the Midwest Independent transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed revisions to Schedules 7, 8 and 9 of the Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: CP06–14–000 on November 21, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6292 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

November 7, 2005.

In the matter of: ER97–4281–014, ER99–2161–005, ER99–3000–004, ER02–1572–002, ER02–1571–002, ER99–1115–008, ER99–1116–008, ER98–4515–004, ER00–2810–003, ER99–4359–002, ER99–4358–002, ER99–2168–005, ER98–1127–008, ER99–2162–005, ER00–2807–003, ER00–2809–003, ER98–1796–007, ER00–1259–004, ER99–4355–002, ER99–4356–002, ER01–1558–002, ER00–3160–004, ER99–4357–002, ER01–2969–003, ER00–2313–004, ER02–1395–002, ER03–955–004, ER02–2032–002, ER02–1396–002, ER02–1412–002, ER00–3718–003, ER99–3637–003, ER99–2157–005, ER99–1712–005, ER00–1250–002, and ER00–2808–003; NRG Power Marketing Inc. Docket Nos., Arthur Kill Power LLC, Astoria Gas Turbines Power LLC, Bayou Cover Peaking Power LLC, Big Cajun I Peaking Power LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, Cadillac Renewale Energy LLC, Conemaugh Power LLC, Connecticut Jet Power LLC, Devon Power LLC, Dunkirk Power LLC, El Segundo Power, LLC, Huntley Power LLC, Indian River Power LLC, Keystone Power LLC, Long Beach Generation LLC, Louisiana Generating LLC, Middletown Power LLC, Montville Power LLC, NEO California Power LLC, Neo Chester-Gen LLC, et al., Norwalk Power LLC, NRG Audrain Generating LLC, NRG Energy Center Paxton LLC, NRG Ilion Limited Partnership, NRG Marketing Services LLC, NRG New Jersey Energy Sales LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Sterlington Power LLC, Oswego Harbor Power LLC, Rocky Road Power LLC, Somerset Power LLC, Tacoma Energy Recovery Company, Vienna Power LLC.

Take notice that on October 28, 2005, the direct and indirect subsidiaries of NRG Energy, Inc. (NRG) tendered for filing a joint notification of change in status with respect to the proposed acquisition by NRG of Texas Genco LLC, (Texas Genco) including the receipt by the owners of Texas Genco of certain amounts of NRG's common stock as part of the consideration for the transfer of Texas Genco to NRG.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 18, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6276 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Filing

November 7, 2005.

In the matter of: ER97–4281–014, ER99–2161–005, ER99–3000–004, ER02–1572–002, ER02–1571–002, ER99–1115–008, ER99–1116–008, ER98–4515–004, ER00–2810–003, ER99–4359–002, ER99–4358–002, ER99–2168–005, ER98–1127–008, ER99–2162–005, ER00–2807–003, ER00–2809–003, ER98–1796–007, ER00–1259–004, ER99–4355–002, ER99–4356–002, ER01–1558–002, ER00–3160–004, ER99–4357–002, ER01–2969–003, ER00–2313–004, ER02–1395–002, ER03–955–004, ER02–2032–002, ER02–1396–002, ER02–1412–002, ER00–3718–003, ER99–3637–003, ER99–2157–005, ER99–1712–005, ER00–1250–002, and ER00–2808–003; NRG Power Marketing Inc., Arthur Kill Power LLC, Astoria Gas Turbines Power LLC, Bayou Cover Peaking Power LLC, Big Cajun I Peaking Power LLC, Cabrillo Power I LLC, Cabrillo Power II LLC, Cadillac Renewale Energy LLC, Conemaugh Power LLC, Connecticut Jet Power LLC, Devon Power LLC, Dunkirk Power LLC, El Segundo Power, LLC, Huntley Power LLC, Indian River Power LLC, Keystone Power LLC, Long Beach Generation LLC, Louisiana Generating LLC, Middletown Power LLC, Montville Power LLC, NEO California Power LLC, Neo Chester-Gen LLC, *et al.*, Norwalk Power LLC, NRG Audrain Generating LLC, NRG Energy Center Paxton LLC, NRG Ilion Limited Partnership, NRG Marketing Services LLC, NRG New Jersey Energy Sales LLC, NRG Rockford LLC, NRG Rockford II LLC, NRG Sterlington Power LLC, Oswego Harbor Power LLC, Rocky Road Power LLC, Somerset Power LLC, Tacoma Energy Recovery Company, and Vienna Power LLC.

Take notice that on October 28, 2005, the direct and indirect subsidiaries of NRG Energy, Inc. (NRG) tendered for filing a joint notification of change in status with respect to the proposed acquisition by NRG of Texas Genco LLC, (Texas Genco) including the receipt by the owners of Texas Genco of certain amounts of NRG's common stock as part of the consideration for the transfer of in Texas Genco to NRG.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 18, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6281 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–81–000]

Overthrust Pipeline Company; Notice of Tariff Filing

November 8, 2005.

Take notice that on November 4, 2005, Overthrust Pipeline Company (Overthrust), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Eleventh Revised Sheet No. 48, with an effective date of December 5, 2005.

Overthrust states that copies of this filing were served upon Overthrust's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission,

888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6289 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 8, 2005.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to delete a transmission line.

b. *Project No:* 2157–165.

c. *Date Filed:* October 25, 2005.

d. *Applicant:* Public Utilities District No. 1 of Snohomish County.

e. *Name of Project:* Henry M. Jackson (Jackson Project).

f. *Location:* The project is located on the Sultan River in Snohomish County, Washington.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791a—825r.

h. *Applicant Contacts:* (1) Clair Olivers, Assistant General Manager, Public Utility District No. 1 of Snohomish County, 2320 California Street, P.O. Box 1107, Everett, Washington 98206–1107, TEL: 425–783–8606, FAX: 425–783–8238, *cholivers@snopud.com;* or (2) Michael A. Swiger, Van Ness Feldman, P.C., 1050 Thomas Jefferson Street, Suite 700, Washington, DC 20007, TEL: (202) 298–1891, FAX: (202) 338–2416, *mas@vnf.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Hong Tung at (202) 502–8757, or e-mail address: *hong.tung@ferc.gov.*

j. *Deadline for filing comments and or motions:* December 9, 2005.

k. *Description of Request:* The licensee proposes to delete a single-circuit 115 kV transmission line (South Line) from the license. The licensee states that the South Line is no longer used solely to transmit power from the Jackson Project to the interconnected grid and would be part of the PUD's interconnected transmission system even if the Jackson Project were not to exist.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6286 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–80–000]

Questar Pipeline Company; Notice of Tariff Filing

November 8, 2005.

Take notice that on November 4, 2005, Questar Pipeline Company (Questar), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Eleventh Revised Sheet No. 59, with an effective date of December 5, 2005.

Questar states that copies of this filing were served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that

document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6288 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–79–000]

Questar Southern Trails Pipeline Company; Notice of Tariff Filing

November 8, 2005.

Take notice that on November 4, 2005, Questar Southern Trails Pipeline Company (Southern Trails), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Sheet No. 54, with an effective date of December 5, 2005.

Southern Trails states that copies of this filing were served upon its customers and the public service commissions of Utah, New Mexico, Arizona and California.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6287 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC06–24–000]

San Juan Mesa Wind Project, LLC; Padoma Project Holdings, LLC; Mission Wind New Mexico; Notice of Filing

November 7, 2005.

Take notice that on November 3, 2005, San Juan Mesa Wind Project, LLC (San Juan Mesa), Padoma Project Holdings, LLC (Padoma) and Mission Wind New Mexico (Mission Wind NM) filed with the Commission an application pursuant to section 203 of the Federal Power Act for authorization of an indirect disposition of jurisdictional facilities in connection with the transfer by Padoma of its one hundred percent membership interest in San Juan Mesa to Mission Wind NM and a subsequent transfer of a twenty-five percent membership interest in San Juan Mesa to Citicorp N.A. or its affiliate. Pursuant to Section 388.112 of the Commission's regulations, 18 CFR 388.112, San Juan Mesa, Padoma and Mission Wind NM request confidential treatment of the documents relating to these respective transactions that are attached as Exhibit I to this Application. San Juan Mesa states that it is developing and constructing an approximately 120 megawatt wind energy generating facility located in Roosevelt and Chaves Counties, New Mexico.

San Juan Mesa states that a copy of the application was served upon the New Mexico Public Regulation Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 25, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6275 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC06–24–000]

San Juan Mesa Wind Project, LLC, Padoma Project Holdings, LLC, Mission Wind New Mexico; Notice of Filing

November 7, 2005.

Take notice that on November 3, 2005, San Juan Mesa Wind Project, LLC (San Juan Mesa), Padoma Project Holdings, LLC (Padoma) and Mission Wind New Mexico (Mission Wind NM) filed with the Commission an application pursuant to section 203 of the Federal Power Act for authorization of an indirect disposition of jurisdictional facilities in connection with the transfer by Padoma of its one hundred percent membership interest in San Juan Mesa to Mission Wind NM and a subsequent transfer of a twenty-five percent membership interest in San Juan Mesa to Citicorp N.A. or its affiliate. Pursuant to Section 388.112 of the Commission's regulations, 18 CFR 388.112, San Juan Mesa, Padoma and Mission Wind NM request confidential treatment of the documents relating to these respective transactions that are attached as Exhibit I to this Application. San Juan Mesa states that it is developing and constructing an approximately 120 megawatt wind energy generating facility located in Roosevelt and Chaves Counties, New Mexico.

San Juan Mesa states that a copy of the application was served upon the New Mexico Public Regulation Commission.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR. 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. eastern time on November 25, 2005.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6280 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 7, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER01–316–018.

Applicants: ISO New England Inc.

Description: ISO New England, Inc submits its Index of Customers for the third quarter of 2005.

Filed Date: November 1, 2005.

Accession Number: 20051103–0038.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER04–445–013.

Applicants: California Independent System Operator Corporation.

Description: The California Independent System Operator Corp submits its long-term Standard Large Generator Interconnection Procedures etc. pursuant to FERC's June 16, 2005 Order.

Filed Date: November 1, 2005.

Accession Number: 20051103–0065.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER04–445–014; ER04–435–018; ER04–441–010; ER04–443–010.

Applicants: California Independent System Operator; Pacific Gas and Electric Company, San Diego Gas & Electric Company; Southern California Edison Company.

Description: California Independent System Operator Corp, Pacific Gas & Electric Co *et al.* submit a long-term Standard Large Generator Interconnection Agreement for approval as a pro forma agreement per FERC's July 1, 2005 Order.

Filed Date: November 1, 2005.

Accession Number: 20051103–0096.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER05–1326–002.

Applicants: Cornerstone Energy General Partners, LLC.

Description: CornerStone Energy General Partners, LLC submits Revised Sheet No. 2 to FERC Electric Tariff, Original Volume No. 1.

Filed Date: October 31, 2005.

Accession Number: 20051104–0300.

Comment Date: 5 p.m. eastern time on Monday, November 21, 2005.

Docket Numbers: ER05–718–004.

Applicants: California Independent System Operator.

Description: California Independent System Operator submits compliance filing to clarify CAISO's authority to settle intertie transactions.

Filed Date: November 1, 2005.

Accession Number: 20051103–0095.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–5–001.

Applicants: CBK Group, LTD.

Description: Petition of CBK Group Ltd for acceptance of amended rate schedule, waivers and blanket authority.

Filed Date: October 28, 2005.

Accession Number: 20051104–0318.

Comment Date: 5 p.m. eastern time on Friday, November 18, 2005.

Docket Numbers: ER91–569–030; EL04–123–004; EL05–105–002; ER01–666–006; ER02–862–006; ER01–1675–004; ER01–1804–005.

Applicants: Entergy Services, Inc.

Description: Entergy Services Inc on behalf of EWO Marketing LP *et al.* submits a compliance filing pursuant to FERC's December 17, 2004 order.

Filed Date: November 1, 2005.

Accession Number: 20051104–0299.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER91–569–031; EL04–123–005; EL05–105–003.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc. on behalf of Entergy Operating Companies submits a compliance filing pursuant to FERC's 12/17/04 Order.

Filed Date: November 1, 2005.

Accession Number: 20051104–0322.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER99–3168–005; ER00–1463–005.

Applicants: Astoria Generating Company Acquisitions; Orion Power MidWest, LP.

Description: Astoria Generating Co, LP & Orion Power MidWest, LP submit revised tariff sheets to modify the prohibited transactions section of their tariffs to state that they will not make sales or purchases.

Filed Date: November 1, 2005.

Accession Number: 20051103–0098.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER99–3491–007; ER00–2184–005; ER00–2185–005; EL05–124–002.

Applicants: PP&L Montana, LLC.

Description: PPL Montana, LLC *et al.* submits the Delivered Price Test analyses in accordance with FERC's order issued September 1, 2005 in the triennial market-based rate update proceeding.

Filed Date: October 31, 2005.

Accession Number: 20051104–0325.

Comment Date: 5 p.m. eastern time on Monday, November 21, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6270 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

November 8, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER02–1406–011; ER01–1099–010; ER99–2928–007; ER01–1397–007; EL06–4–000.

Applicants: Acadia Power Partners, LLC; Cleco Power LLC; Cleco Evangeline LLC; Perryville Energy Partners, LLC.

Description: The Cleco Companies submitted a compliance filing, in response to FERC's October 21, 2005 Order.

Filed Date: October 27, 2005.

Accession Number: 20051104–0103.

Comment Date: 5 p.m. eastern time on Thursday, November 17, 2005.

Docket Numbers: ER06–77–000.

Applicants: Illinois Municipal Electric Agency.

Description: Illinois Municipal Electric Agency submits a corrected FERC Rate Schedule No. 1 to its October 28, 2005 filing.

Filed Date: October 31, 2005.

Accession Number: 20051104–0269.

Comment Date: 5 p.m. eastern time on Monday, November 21, 2005.

Docket Numbers: ER06–145–000.

Applicants: Commonwealth Electric Company.

Description: Commonwealth Electric Co submits an executed Merchants Way Interconnection Agreement with New England Power Co dated November 1, 2005.

Filed Date: November 2, 2005.

Accession Number: 20051104–0319.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06–146–000.

Applicants: Alliance Energy Marketing, LLC.

Description: Alliance Energy Marketing, LLC submits an application for acceptance of an Initial Market-Based Rate Tariff, Waiving Regulations and Granting Blanket Approvals.

Filed Date: November 2, 2005.

Accession Number: 20051104–0315.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06–147–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities Co submits a Notice of Cancellation of Transmission Agreement with Eastern Kentucky Power Cooperative.

Filed Date: November 2, 2005.

Accession Number: 20051104–0316.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06–148–000.

Applicants: Virginia Electric and Power Company.

Description: Virginia Electric & Power Co submits its Rate Schedule FERC No. 133, its updated revenue requirement for Reactive Supply & Voltage Control from Generation Sources Service etc under Schedule 2 of the PJM Interconnection Open Access Transmission Tariff.

Filed Date: November 2, 2005.

Accession Number: 20051104–0320.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER06–149–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services Inc, on behalf of Entergy Arkansas Inc submits Second Revised Rate Schedule No. 98 with the City of Conway and First Revised Rate Schedule No. 99 with the City of West Memphis, Arkansas.

Filed Date: November 2, 2005.

Accession Number: 20051104–0321.

Comment Date: 5 p.m. eastern time on Wednesday, November 23, 2005.

Docket Numbers: ER99–3491–007; ER00–2184–005; ER00–2185–005; EL05–124–002.

Applicants: PP&L Montana, LLC; PPL Colstrip I, LLC; PPL Colstrip II, LLC.

Description: PPL Montana, LLC et al submits the Delivered Price Test analyses in accordance with FERC's order issued 9/1/05 in the triennial market-based rate update proceeding.

Filed Date: October 31, 2005.

Accession Number: 20051104–0324.

Comment Date: 5 p.m. eastern time on Monday, November 21, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6271 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

November 8, 2005.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER06–100–000.

Applicants: Hunlock Creek Energy Ventures.

Description: Hunlock Creek Energy Ventures submits Rate Schedule FERC No. 2 which specifies the revenue requirement for providing cost-based Reactive Support and Voltage Control form Generation Source Service.

Filed Date: 11/01/2005.

Accession Number: 20051103–0086.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–116–000.

Applicants: Entergy Services, Inc.

Description: Entergy Services, Inc on behalf of Entergy Gulf States, Inc submits the rate schedules providing for cost-based power sales for full requirements service to Caldwell, Newton, and Kirbyville, TX.

Filed Date: 11/01/2005.

Accession Number: 20051104–0102.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–117–000.

Applicants: FirstEnergy Solutions Corp.

Description: FirstEnergy Solutions Corp submits Power Supply Agreements for the sale of capacity and energy by Solutions to certain affiliated electric utility companies.

Filed Date: 11/01/2005.

Accession Number: 20051104–0001.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–118–000.

Applicants: Devon Power LLC, Middletown Power LL, and Montville Power LLC.

Description: Devon Power, LLC et al submit FERC Electric Tariff Original Volume No. 3 which consists of unexecuted Cost of Service Agreements.

Filed Date: 11/01/2005.

Accession Number: 20051104–0295.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–119–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Co submits its forecast revenue requirement and proposed rates for the service year 2006 Reliability Services costs.

Filed Date: 11/01/2005.

Accession Number: 20051104–0323.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–120–000.

Applicants: Duke Power, Division of Duke Energy Corp.

Description: Duke Power, a division of Duke Energy Corp submits the Catawba Nuclear Station Joint Ownership Support Agreement and the McGuire Reliability Exchange Agreement with Piedmont Municipal Power Agency.

Filed Date: 11/01/2005.

Accession Number: 20051104–0003.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–121–000.

Applicants: ISO New England Inc. and Bangor Hydro-Electric Company.

Description: ISO New England Inc and Bangor Hydro submits an executed Standard Large Generator Interconnection Agreement by and among ISO–NE, Bangor Hydro and Georgia Pacific.

Filed Date: 11/01/2005.

Accession Number: 20051104–0101.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–123–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Co. submits for filing of the revision to Transmission Owner Tariff, FERC Electric Tariff, Second Revised Volume No. 6.

Filed Date: 11/01/2005.

Accession Number: 20051104–0002.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–124–000.

Applicants: Kentucky Power Company.

Description: Kentucky Power Co submits a notice of cancellation of its Service Agreement No. 1 under FERC Electric Tariff, Original Volume No. 2.

Filed Date: 11/01/2005.

Accession Number: 20051103–0140.

Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–126–000.

Applicants: Ohio Edison Company.

Description: Ohio Edison Company submits a notice of cancellation of a Power Interchange Agreement with Monongahela Power Co et al dated as of 3/18/87.

Filed Date: 11/01/2005.
Accession Number: 20051103–0137.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–127–000.
Applicants: FirstEnergy Service Company.
Description: FirstEnergy Service Co submits a notice of cancellation of the Master Facility Lease dated as of 1/1/01 with FirstEnergy Generation Corp and FirstEnergy Operating Companies.
Filed Date: 11/01/2005.
Accession Number: 20051103–0141.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–128–000.
Applicants: Ohio Edison Company.
Description: Ohio Edison Co submits a notice of cancellation of a Power Supply Agreement with Potomac Electric Power Co dated as of 3/18/87.
Filed Date: 11/01/2005.
Accession Number: 20051103–0135.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–130–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, LLC submits Fifth Revised Sheet No. et al to FERC Electric Tariff Sixth Revised Volume No. 1 to effectuate a change by a transmission customer receiving network integration transmission service.
Filed Date: 11/01/2005.
Accession Number: 20051103–0138.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–131–000.
Applicants: Arizona Public Service Company.
Description: Arizona Public Service Co submits Original Sheet Nos. 243A and 348A to FERC Electric Tariff, Thirteenth Revised Volume No. 2 in response to FERC's Order 661.
Filed Date: 11/01/2005.
Accession Number: 20051103–0139.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–133–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnecton LLC submits an unexecuted Network Integration Transmission Service Agreement with the City of Geneva, IL and amendment to the existing Interconnection Service Agreement.
Filed Date: 11/01/2005.
Accession Number: 20051103–0194.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–135–000.
Applicants: New York State Electric & Gas Corporation.
Description: New York State Electric & Gas Corp submits supplement to FERC Rate Schedule No. 194—Facilities Agreement with the Steuben Rural Electric Cooperative, Inc.
Filed Date: 11/01/2005.
Accession Number: 20051104–0263.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–136–000.
Applicants: New York State Electric & Gas Corp.
Description: New York State Electric & Gas Corp submits supplement to Rate Schedule FERC No. 226—Facilities Agreement with Otsego Electric Cooperative, Inc.
Filed Date: 11/01/2005.
Accession Number: 20051104–0264.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–137–000.
Applicants: New York State Electric & Gas Corp.
Description: New York State Electric & Gas Corp submits a supplement to FERC Rate Schedule No. 227—Facilities Agreement with Municipal Board of the Village of Bath.
Filed Date: 11/01/2005.
Accession Number: 20051104–0302.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–138–000.
Applicants: New York State Electric & Gas Corp.
Description: New York State Electric & Gas Corp submits a supplement to FERC Rate Schedule No. 228—Facilities Agreement with the Village of Groton.
Filed Date: 11/01/2005.
Accession Number: 20051104–0265.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–139–000.
Applicants: Inland Power & Light Company.
Description: Inland Power & Light Co advises that due to amendments of section 201(f) of the Federal Power Act, it is no longer a public utility and requests that Rate Schedule FERC Nos.1 & 2 be withdrawn.
Filed Date: 11/01/2005.
Accession Number: 20051104–0298.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–140–000.
Applicants: American Electric Power.
Description: American Electric Power on behalf of Indiana Michigan Power Co submits a Cost-Based Formula Rate Agreement for Baseload Electric Service between American Electric Power Service Corporation and the Indiana Municipal Power Agency.
Filed Date: 11/01/2005.
Accession Number: 20051104–0314.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–141–000.
Applicants: American Electric Power Service Company.
Description: American Electric Power Service Corp submits a proposed amendment to the System Integration Agreement among the indicated operating companies.
Filed Date: 11/01/2005.
Accession Number: 20051104–0266.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–143–000.
Applicants: Pepperell Realty LLC.
Description: Petition for acceptance of initial rate schedule, waivers and blanket authority submitted by Pepperell Realty LLC.
Filed Date: 11/01/2005.
Accession Number: 20051104–0270.
Comment Date: p.m. eastern time on Tuesday, November 22, 2005.

Docket Numbers: ER06–144–000.
Applicants: Progress Energy Service Company, LLC.
Description: Progress Energy Service Co, LLC on behalf of Carolina Power & Light Co dba Progress Energy Carolinas, Inc and Florida Power Corporation, submits revised tariff sheets adopting the Revised Transmission Loading Relief procedures by NERC, in compliance with FERC's 10/7/05 Order.
Filed Date: 11/01/2005.
Accession Number: 20051104–0317.
Comment Date: 5 p.m. eastern time on Tuesday, November 22, 2005.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other and the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access

who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6278 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2216–066–NY]

New York Power Authority; Notice of Intent To Prepare Environmental Impact Statement

November 7, 2005.

On August 18, 2005, the New York Power Authority (NYPA) filed an application for a new license for the continued operation of the 2,538-megawatt Niagara Power Project (FERC No. 2216–066). On August 19, 2005, NYPA filed an Offer of Settlement for the new license. The project is located on the Niagara River in Niagara County, New York. The project does not occupy any federal lands.

In accordance with the National Environmental Policy Act (NEPA) and the Commission's regulations for using the alternative licensing process,[1] Commission staff held public scoping meetings for the Niagara Power Project on August 13, 2003, in Niagara Falls, New York. Commission staff, state, federal and local agencies, tribes, and the public participated in the meetings. These scoping meetings and an open and extensive collaborative relicensing process were used to define the issues and alternatives addressed in NYPA's application.

Based on comments received, since the scoping meeting, Commission staff have determined that licensing the Niagara Power Project could constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intend to prepare an Environmental Impact Statement for the project. The staff's EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include economic and engineering analyses.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in the final EIS. The staff's conclusions and recommendations will be available for the consideration of the Commission in reaching its final licensing decision.

This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) The Commission staff has decided to prepare an EIS and (2) the scoping conducted on the Niagara Power Project by Commission staff and comments filed with the Commission on the application and the Offer of Settlement will be taken into account in the EIS.

Any questions regarding this notice may be directed to Steve Kartalia at (202) 502–6131.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6274 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

[1] 81 FERC ¶ 61,103 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2216–066–NY]

New York Power Authority; Notice of Intent To Prepare Environmental Impact Statement

November 7, 2005.

On August 18, 2005, the New York Power Authority (NYPA) filed an application for a new license for the continued operation of the 2,538-megawatt Niagara Power Project (FERC No. 2216–066). On August 19, 2005, NYPA filed an Offer of Settlement for the new license. The project is located on the Niagara River in Niagara County, New York. The project does not occupy any federal lands.

In accordance with the National Environmental Policy Act (NEPA) and the Commission's regulations for using the alternative licensing process,[1] Commission staff held public scoping meetings for the Niagara Power Project on August 13, 2003, in Niagara Falls, New York. Commission staff, State, Federal and local agencies, tribes, and the public participated in the meetings. These scoping meetings and an open and extensive collaborative relicensing process were used to define the issues and alternatives addressed in NYPA's application.

Based on comments received, since the scoping meeting, Commission staff have determined that licensing the Niagara Power Project could constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intend to prepare an Environmental Impact Statement for the project. The staff's EIS will objectively consider both site-specific and cumulative environmental impacts of the project and reasonable alternatives, and will include economic and engineering analyses.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed on the draft EIS will be analyzed by the staff and considered in the final EIS. The staff's conclusions and recommendations will be available for the consideration of the Commission in reaching its final licensing decision. This notice informs all interested individuals, organizations, and agencies with environmental expertise and concerns, that: (1) The Commission staff has decided to prepare an EIS and (2) the scoping conducted on the Niagara Power Project by Commission staff and comments filed with the Commission on the application and the Offer of Settlement will be taken into account in the EIS. Any questions regarding this notice may be directed to Steve Kartalia at (202) 502–6131.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6279 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

[1] 81 FERC ¶ 61,103 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

November 8, 2005.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12607–000.

c. *Date filed:* August 15, 2005.

d. *Applicant:* Town of Massena Electric Department.

e. *Name of Project:* Massena Grasse Hydroelectric Project.

f. *Location:* In the town of Massena, on the Grasse River, in St. Lawrence County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Andrew McMahon, P.E., Superintendent, Town of Massena Electric Department, 71 East Hatfield Street, Massena, New York 13662, (315) 764–0253, Fax (315) 764–1498, and e-mail *amcmahon@med.massena.ny.us.*

i. *FERC Contact:* Patricia W. Gillis at (202) 502–8735 or e-mail *patricia.gillis@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) A proposed 22-foot-high, 245-foot-long concrete gravity dam, (2) a proposed impoundment having a surface area of 300 acres, with negligible storage and normal water surface elevation of 178 feet mean sea level, (3) a proposed powerhouse containing one generating unit having an installed capacity of 2.5 megawatts, (4) a proposed 23-kilovolt quarter mile sub-transmission line, and (5) appurtenant facilities. The project would have an annual generation of 9,600 megawatt hours that would be used by the Town of Massena Electric Department.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E5–6285 Filed 11–14–05; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Solicitation of Interest for New Transmission Capacity Between Wyoming and Colorado

AGENCY: Western Area Power Administration, DOE.

ACTION: Request for Statements of Interest.

SUMMARY: The electricity corridor between southeastern Wyoming and northeastern Colorado has experienced a transmission constraint for a number of years. This constraint is designated in the Western Electricity Coordinating Council's Path Rating Catalog and referenced in this notice as ''TOT 3.''

To examine possibilities for relieving the TOT 3 constraint, the Western Area Power Administration (Western) has entered into a Memorandum of Understanding (MOU) with the Wyoming Infrastructure Authority (WIA) and Trans-Elect, Inc. (Trans-Elect). Under this MOU, Western is soliciting expressions of interest from entities desiring transmission rights on a new line potentially to be built across TOT 3.

DATES: To be assured of consideration, all Statements of Interest should be submitted in a non-confidential manner and received at Western's Rocky Mountain Regional Office by December 15, 2005.

ADDRESSES: Statements of Interest should be mailed to: Mr. Robert Kennedy, Restructuring Manager, Rocky Mountain Region, Western Area Power Administration, 5555 East Crossroads Boulevard, Loveland, CO 80538. Statements of Interest may also be faxed to (970) 461–7423 or e-mailed to *rkennedy@wapa.gov*.

SUPPLEMENTARY INFORMATION: TOT 3, a long-recognized transmission constraint between Colorado and Wyoming, has been the subject of many studies and reports over the past several years. Most recently, the September 2004 ''Rocky Mountain Area Transmission Study'' (RMATS) report identified TOT 3 as a transmission expansion project that, if and when completed, could bring substantial benefits to the area by encouraging the siting and construction of low-cost clean coal and wind projects in Wyoming to serve the electricity needs of customers along Colorado's Front Range. Such a project is supported by Wyoming's Governor David Freudenthal, the Wyoming Congressional delegation, and the wide range of stakeholders that comprised the RMATS effort. However, due to economic and operational factors, interest from entities willing to fund transmission capacity expansions across TOT 3 has been significantly less than that envisioned by the RMATS participants. To encourage interested entities to consider participating in the TOT 3 expansion, Western entered into a MOU with WIA and Trans-Elect as part of a collaborative attempt to examine possibilities for constructing such a project.

The three MOU parties represent a diverse range of stakeholder interests. Western, a power marketing administration within the Department of Energy, has extensive experience in transmission operations, construction, and maintenance across its 15-state service territory. Western has general authority under the Department of Energy Organization Act to construct, operate, and maintain transmission lines and related facilities, and is a partial owner of the existing transmission capacity across, and the path operator of, TOT 3. WIA was formed in June 2004 by the State of Wyoming to facilitate expansion of the state's transmission system, including TOT 3, and has been granted bonding authority by the State legislature for that purpose. Trans-Elect is an independent transmission developer, owner, and operator. Trans-Elect previously partnered with Western on the Path 15 transmission expansion project in California.

Western is issuing this notice to solicit the interest of entities desiring new transmission capacity across TOT 3. WIA and Trans-Elect will contribute the funding and staffing necessary to conduct (1) coordination meetings among interested entities, and (2) feasibility studies that may be generated as a result of those meetings. Western has agreed to provide technical assistance for the feasibility studies, but has no project-related funding commitments.

Specifically, Western seeks to identify all entities interested in acquiring transmission rights on a new 500-megawatt line potentially to be built across TOT 3, the cost of which was estimated by the RMATS study to be $318 million for a 345-kilovolt project. Interested entities should submit Statements of Interest including the following information:

1. Name and general description of the entity.

2. Name, mailing address, telephone number, facsimile number, and e-mail address of the entity's primary contact.

3. Amount of transmission rights the entity may desire if and when the project is completed.

Western will compile and forward all Statements of Interest to WIA and Trans-Elect. Accordingly, to be assured of consideration, Statements of Interest should be submitted in a non-confidential manner as discussed previously.

Dated: November 3, 2005.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 05–22628 Filed 11–14–05; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7996–5]

Science Advisory Board Staff Office; Clean Air Scientific Advisory Committee (CASAC); Notification of Advisory Committee Meeting of the CASAC Ozone Review Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee's (CASAC) Ozone Review Panel (Panel) to conduct a peer review of the *Air Quality Criteria for Ozone and Related Photochemical Oxidants (Second External Review Draft), Volumes I, II, and III* (second draft Ozone AQCD, August 2005); and a consultation on the *Review of the National Ambient Air Quality Standards for Ozone: Policy Assessment of Scientific and Technical Information* (first draft Ozone Staff Paper, November 2005) and two related draft technical support documents, *Ozone Health Risk Assessment for Selected Urban Areas: First Draft Report* (first draft Ozone Risk Assessment, November 2005) and *Ozone Population Exposure Analysis for Selected Urban Areas: Draft Report* (first draft Ozone Exposure Assessment, October 2005).

DATES: The meeting will be held from 9 a.m. (eastern time) on Tuesday, December 6, 2005, through 3 p.m. (eastern time) on Thursday, December 8, 2005.

LOCATION: The meeting will take place at the Hilton Durham near Duke University, 3800 Hillsborough Road, Durham, NC 27705, Phone: (919) 383–8033.

FOR FURTHER INFORMATION CONTACT: Any member of the public who would like to submit written or brief oral comments; or wants further information concerning this meeting, should contact Mr. Fred Butterfield, Designated Federal Officer (DFO), EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; via telephone/voice mail: (202) 343–9994; fax: (202) 233–0643; or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC or the EPA SAB can be found on the EPA Web site at: *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: Section 109(d)(1) of the Clean Air Act (CAA or Act) requires that EPA periodically review and revise, as appropriate, the air quality criteria and the national ambient air quality standards (NAAQS) for the six ''criteria'' air pollutants, including ambient ozone. EPA is in the process of updating, and revising where appropriate, the air quality criteria document (AQCD) for ozone and related photochemical oxidants published in 1996. Under CAA sections 108 and 109, the purpose of the revised Ozone AQCD is to provide an assessment of the latest scientific information on the effects of ambient ozone on the public health and welfare, for use in EPA's current review of the NAAQS for ozone. In January 2005, EPA's National Center for Environmental Assessment, Research Triangle Park, NC (NCEA–RTP), within the Agency's Office of Research and Development (ORD), made available for public review and comment a First External Review Draft of a revised document, *Air Quality Criteria for Ozone and Related Photochemical Oxidants (First External Review Draft), Volumes I, II, and III,* (EPA/600/R–05/004aA, bA, and cA, first draft Ozone AQCD, January 2005). Detailed summary information on EPA's first draft Ozone AQCD is contained in a previous EPA **Federal Register** notice (70 FR 4850, January 31, 2005).

EPA is soliciting advice and recommendations from the CASAC by means of a peer review of the second draft Ozone AQCD. The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the CAA (42 U.S.C. 7409) as an independent scientific advisory committee, in part to provide advice, information and recommendations on the scientific and technical aspects of issues related to air quality criteria and NAAQS under sections 108 and 109 of the Act. The CASAC is a Federal advisory committee chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Ozone Review Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies. This meeting is a continuation of the CASAC Ozone Review Panel's peer review of the current draft Ozone AQCD. The Panel met in a public meeting on May 4–5, 2005 to conduct its initial peer review of the first draft Ozone AQCD. The report from that meeting, dated June 22, 2005, is posted on the SAB Web site at: *http://www.epa.gov/sab/pdf/casac_ozone_casac-05–010.pdf.*

In addition, pursuant to sections 108 and 109 of the CAA, EPA is in the process of reviewing the ozone NAAQS, which the Agency most recently revised in July 1997. EPA's Office of Air Quality Planning and Standards (OAQPS), within the Office of Air and Radiation (OAR), has developed a draft updated Staff Paper for ambient ozone as part of its review of the ozone NAAQS. This draft Ozone Staff Paper evaluates the policy implications of the key scientific and technical information contained in the current draft Ozone AQCD and identifies critical elements that EPA believes should be considered in its review of the ozone NAAQS. The Ozone Staff Paper is intended to ''bridge the gap'' between the scientific review contained in the Ozone AQCD and the public health and welfare policy judgments required of the EPA Administrator in reviewing the ozone NAAQS. EPA is soliciting early advice and recommendations from the CASAC by means of a consultation on the first draft Ozone Staff Paper and the first drafts of the Ozone Exposure Analysis and Risk Assessment.

Technical Contact: Any questions concerning the second draft Ozone AQCD should be directed to Dr. Lori White, NCEA-RTP, at phone: (919) 541–3146, or e-mail: *white.lori@epa.gov.* Any questions concerning the first draft Ozone Staff Paper and the first drafts Ozone Exposure Analysis and Risk Assessment should be directed to Dr. Dave McKee, OAQPS, at phone: (919) 541–5288, or e-mail: *mckee.dave@epa.gov.*

Availability of Meeting Materials: The second draft Ozone AQCD (EPA 600/R–05/004aB, bB, and cB, August 2005) can be accessed via the Agency's NCEA Web site at: *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=137307.* The first draft Ozone Staff Paper, the first drafts of the Ozone Exposure Analysis and Risk Assessment, and additional staff technical support memos referenced in the draft Ozone Staff Paper can be accessed via the Agency's Technology Transfer Network (TTN) Web site at: *http://www.epa.gov/ttn/naaqs/standards/ozone/s_o3_index.html* in the ''Documents for Current Review'' section under ''Staff Papers'' and ''Technical Documents,'' respectively. In addition, a copy of the draft agenda for this meeting will be posted on the SAB Web site at: *http://www.epa.gov/sab* (under the ''Agendas'' subheading) in advance of this CASAC Ozone Review Panel meeting. Other meeting materials, including the charge to the CASAC Ozone Review Panel, will be posted on the SAB Web site at: *http://www.epa.gov/sab/panels/casacorpanel.html* prior to this meeting.

Procedures for Providing Public Comment: The SAB Staff Office accepts written public comments of any length, and will accommodate oral public comments whenever possible. The SAB Staff Office expects that the public will not repeat previously-submitted oral or written statements. *Oral Comments:* Requests to provide oral comments must be *in writing* (e-mail, fax or regular mail) and received by Mr. Butterfield no later than November 29, 2005 to reserve time on the meeting agenda. Opportunities for oral comments will be limited to five minutes per speaker. *Written Comments:* Written comments should be received in the SAB Staff Office by December 1, 2005 so that these comments may be made available to the members of the CASAC Ozone Review Panel for their consideration. Comments should be supplied to Mr. Butterfield at the contact information provided above, in the following formats: one hard copy (original signature optional), or one electronic copy via e-mail (acceptable file format: Adobe PDF, WordPerfect, MS Word, or Rich Text files (in IBM-PC/Windows 98/2000/XP format)).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 8, 2005.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. 05–22612 Filed 11–14–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7996–6]

Science Advisory Board (SAB) Staff Office; Notification of Multiple Upcoming Teleconferences of the Science Advisory Board Ecological Processes and Effects Committee, Arsenic Review Panel, and the Second Generation Model Advisory Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces three upcoming public teleconferences of the:

(1) SAB Ecological Processes and Effects Committee to prepare for a review of the EPA Region 6 Geographic Information System Screening Tool;

(2) The SAB Arsenic Review Panel to discuss and reach consensus its draft report Advisory on EPA's Assessments of Carcinogenic Effects of Organic and Inorganic Arsenic; and

(3) The SAB Second Generation Model Advisory Panel to discuss potential revisions to its interim draft comments on the model.

DATES: The dates for the three teleconferences are:

(1) Ecological Processes and Effects Committee on November 30, 2005, from 2 p.m. to 4 p.m. eastern time;

(2) SAB Arsenic Review Panel on December 5, 2005 from 2 to 4:30 p.m Eastern time; and

(3) The SAB Second Generation Model Advisory Panel on December 9, 2005 from 1 p.m. to 3 p.m. eastern time.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to obtain the teleconference call-in numbers and access codes to participate in the teleconferences may contact the following individuals.

(1) For the SAB Ecological Processes and Effects teleconference, contact Dr. Thomas Armitage, Designated Federal Officer (DFO) by telephone at (202) 343–9995; fax at (202) 233–0643; or e-mail at *armitage.thomas@epa.gov*.

(2) For the SAB Arsenic Review Panel teleconference, contact Mr. Thomas O. Miller, DFO by telephone at (202) 343–9982 or e-mail at *miller.tom@epa.gov*.

(3) For the SAB Second Generation Model Advisory Panel teleconference contact Dr. Holly Stallworth, DFO, by telephone at (202) 343–9867 or e-mail at *stallworth.holly@epa.gov*. General information about the SAB, as well as any updates concerning the teleconferences announced in this notice, may be found on the SAB Web site at: *http://www.epa.gov/sab*.

SUPPLEMENTARY INFORMATION:

Background

Backround information for each teleconference is provided separately below:

(1) The SAB Ecological Processes and Effects Committee—EPA Region 6 has requested that the SAB conduct a review of the Geographic Information System Screening Tool (GISST). The GISST is an environmental assessment tool developed for considering single media and cumulative impacts for complex decisions, such as those under the National Environmental Policy Act (NEPA). The GISST uses geographic information system coverages and environmental and socioeconomic data to provide screening level assessments of the potential environmental vulnerabilities of project locations or the impacts of specified activities. Decision criteria used in GISST score available data on a scale of one to five, with higher scores representing higher potential environmental vulnerability or concern. GISST may be used by decision-makers to help prioritize project locations and alternatives actions. EPA Region 6 is seeking comment from the SAB on the validity of the GISST methodology, the defensibility of the GISST results, and the usefulness of the GISST, particularly within the NEPA process. EPA Region 6 is also interested in making the GISST more user-friendly, and is seeking comments on further enhancements to the GISST. In a **Federal Register** Notice published on September 22, 2005 (70 FR 55620–55621), the SAB Staff Office announced that it was augmenting the expertise on the SAB Ecological Processes and Effects Committee to form the Geographic Information System Screening Tool Review Panel. The SAB Staff Office also announced that a meeting of the Panel would be held on December 7–8, 2005 to review the GISST. The GISST Review Panel will meet with EPA Region 6 representatives by teleconference on November 30, 2005 to discuss the charge and agenda for the upcoming review meeting.

(2) The SAB Arsenic Review Panel—The purpose of this teleconference is to discuss and reach consensus on the draft Advisory on EPA's Assessments of Carcinogenic Effects of Organic and Inorganic Arsenic: An Advisory Report of the U.S. EPA Science Advisory Board. Background on this issue was provided in two **Federal Register** Notices published on February 23, 2005 (70 FR 8803–8804) and July 26, 2005 (70 FR 43144–43145). Human exposure to arsenic compounds can occur through various environmental media by their use as pesticides (e.g., dessicants/defoliants, wood preservatives) or from industrial wastes. EPA regulates environmental exposures to arsenic compounds pursuant to requirements of several laws (e.g., the Safe Drinking Water Act; the Federal Insecticide, Fungicide, and Rodenticide Act; and the Food Quality Protection Act). EPA asked the SAB to provide advice on scientific issues underlying the Agency's assessments of the carcinogenic potential of arsenic compounds. In response to EPA's request, the SAB Staff Office formed an Ad Hoc Panel to review relevant background data and to consider the underlying scientific questions. As a result the Panel drafted an advisory report to the EPA Administrator to respond to the EPA charge. That draft report will be the focus of the December 5, 2005 telephone conference meeting of the Panel.

(3) The SAB Second Generation Model Advisory Panel was discussed in an earlier Notice published on July 9, 2004 (69 FR 41474–41475). Subsequent Notices published on November 18, 2004 (69 FR 67579–67580), January 6, 2005 (70 FR 1245–1246) and March 2, 2005 (70 FR 10089–10090) provided notices of a December 2, 2004 teleconference, a February 4, 2005 face-to-face meeting, and April 1 and May 6, 2005 teleconferences respectively. Additional background material on the Second Generation Model may be found at: *http://www.epa.gov/air/sgm-sab.html*. The upcoming teleconference to be held on December 9 will provide panelists an opportunity to discuss potential revisions to their Interim Draft Comments posted at *http://www.epa.gov/sab/pdf/sgm_07–21–05_interim_draft.pdf*. For technical information on the Second Generation Model contact Michael Shelby, EPA Office of Atmospheric Programs, by telephone at (202) 343–9440 or e-mail *shelby.michael@epa.gov*.

Availability of Meeting Materials

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the SAB will hold the three public teleconferences on the dates and times provided above. Rosters of the Subcommittee and Panel members, their biosketches, the teleconference agendas, and the charges to the Subcommittee and Panels will be posted on the SAB Web site *http://www.epa.gov/sab* prior to the teleconference. Additional materials for each teleconference are described below.

(1) The EPA Region 6 GIS Screening Tool (GISST) User's Manual is available at the following URL address: *http://www.epa.gov/earth1r6/6en/xp/enxp2a3.htm*.

(2) The draft report that is the subject of the SAB Arsenic Review panel meeting is available on the SAB Web site at: *http://www.epa.gov/sab*. EPA's Toxicological Review of Inorganic Arsenic and related background information on inorganic arsenic may be found at: *http://www.epa.gov/waterscience/sab/*. The technical contact for the above information on inorganic arsenic is Dr. Elizabeth Doyle, (202) 566–0056, of the Office of Water. EPA's assessment for organic arsenic, entitled Science Issue Paper: Cancer Mode of Action of Cacodylic Acid (Dimethylarsinic Acid, DMA^V and Recommendations for Dose Response Extrapolation and other related background information on organic arsenic may be found at: *http://www.epa.gov/oppsrrd1/reregistration/cacodylic_acid/*. The technical contact for the above information on organic arsenic is Dr. Anna Lowit, (703) 308–4135, of the Office of Pesticide Programs.

(3) Additional background material on the Second Generation Model may be found at: *http://www.epa.gov/air/sgm-sab.html*. The upcoming teleconference to be held on December 9 will provide panelists an opportunity to discuss potential revisions to their Interim Draft Comments posted at *http://www.epa.gov/sab/pdf/sgm_07–21–05_interim_draft.pdf*.

Procedures for Providing Public Comment

The SAB Staff Office accepts written public comments of any length, and accommodates oral public comments whenever possible. The SAB Staff Office expects that public statements presented at SAB meetings will not repeat previously submitted oral or written statements. Oral Comments: In general, individuals or groups requesting an oral presentation at a teleconference meeting will usually be limited to three minutes per speaker with no more than a total of fifteen minutes for all speakers. Interested parties should contact the appropriate DFO at the contact information provided above in writing via e-mail at least 10 days prior to the scheduled teleconference to be placed on the public speaker list for the teleconference. Speakers should provide an electronic copy of their comments to the DFO for distribution to interested parties and participants in the meeting. Written Comments: Written comments should be received in the SAB Staff Office at least seven days before scheduled teleconference so that the comments may be made available to the Panel for their consideration. Comments should be supplied to the appropriate DFO at the address and contact information provided above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Meeting Accommodations

Individuals requiring special accommodation to access the teleconference should contact the appropriate DFO at the phone number or e-mail address noted above at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: November 8, 2005.

Anthony F. Maciorowski,

Associate Director for Science, EPA Science Advisory Board Staff Office.

[FR Doc. 05–22613 Filed 11–14–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10 a.m. on Tuesday, November 8, 2005, the Corporation's Board of Directors determined, on motion of Vice Chairman Martin J. Gruenberg, seconded by Director Thomas J. Curry (Appointive), concurred in by Director John C. Dugan (Director, Comptroller of the Currency), and Director John M. Reich (Director, Office of Thrift Supervision), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a personnel matter.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: November 8, 2005.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E5–6260 Filed 11–14–05; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 11:10 a.m. on Tuesday, November 8, 2005, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Director Thomas J. Curry (Appointive), seconded by Director John C. Dugan (Director, Comptroller of the Currency), concurred in by Director John M. Reich (Director, Office of Thrift Supervision), Vice Chairman Martin J. Gruenberg, and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 8, 2005.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E5–6261 Filed 11–14–05; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their

views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 29, 2005.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. The Carlisle Family Control Group, Holly Springs, Mississippi, consisting of Dennis C. Carlisle, Sr., Martha Carlisle, Dennis Carlisle, Jr., Fred Carlisle, and the Dennis Carlisle Trust, all of Holly Springs, Mississippi; to retain voting shares of Holly Springs Bancshares, Inc., and thereby indirectly retain voting shares of The Bank of Holly Springs, both of Holly Springs, Mississippi.

2. John Dabney Brown, Holly Springs, Mississippi; to retain voting shares of Holly Springs Bancshares, Inc., and The Bank of Holly Springs, both of Holly Springs, Mississippi.

3. The Fant Family Control Group, consisting of L.G. Fant, III, Washington, DC; William H.S. Fant, Potomac, Maryland; James Fant, San Francisco, California; Cordelia Fantova, Atlanta, Georgia; Nancy Fant Smith, Oxford, Mississippi; Nancy Tisue, Knoxville, Tennessee; L.G. Fant Smith, Murfreesboro, Tennessee; Margaret Rhodes, Atlanta, Georgia; Catherine Smith, Nashville, Tennessee; and Orma R. Smith, III, Corinth, Mississippi; to retain voting shares of Holly Springs Bancshares, Inc., and thereby indirectly retain voting shares of The Bank of Holly Springs, both of Holly Springs, Mississippi.

4. The Gresham Family Control Group, Holly Springs, Mississippi, consisting of Sparkman Boothe Gresham, Frances McGill Gresham, Steven McGill Gresham, Anita Barnett, and Amanda Barnett, all of Holly Springs, Mississippi; to retain voting shares of Holly Springs Bancshares, Inc., and thereby indirectly retain voting shares of The Bank of Holly Springs, both of Holly Springs, Mississippi.

Board of Governors of the Federal Reserve System, November 9, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6294 Filed 11–14–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *http://www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 9, 2005.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Patriot Bancshares, Inc., Houston, Texas; to merge with Quadco Bancshares, Inc., Ladonia, Texas, and thereby indirectly acquire voting shares of Farmers & Merchants State Bank, Ladonia, Texas.

Board of Governors of the Federal Reserve System, November 9, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6296 Filed 11–14–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 2005.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Bank of Montreal, Montreal, Canada; Harris Bankcorp, Inc., Chicago, Illinois; and Harris Financial Corp., Wilmington, Delaware; to engage *de novo* through its subsidiary, Harris Investor Services, Inc., Chicago, Illinois, in financial and investment advisory activities and securities brokerage activities, pursuant to sections 225.28(b)(6)(i) and (b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, November 9, 2005.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E5–6295 Filed 11–14–05; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: OS–0937–0198]

60-Day Notice; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Office of the Secretary.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is

publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of Currently Approved Collection;

Title of Information Collection: Public Health Service Policies on Research Misconduct (42 CFR Part 93;

Form/OMB No.: OS–0937–0198;

Use: Section 493 of the Public Health Service Act and 42 CFR Part 93 require each institution that applies for research and research-related grants to establish policies and procedures for investigation and reporting instances of alleged or apparent misconduct.

Frequency: Recordkeeping, reporting, annually;

Affected Public: Business or other for-profit, not-for-profit institutions; and individuals or households, Federal government, state, local or tribal government;

Annual Number of Respondents: 4,000;

Total Annual Responses: 3,800;

Average Burden Per Response: Six minutes;

Total Annual Hours: 400;

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access the HHS Web site address at *http://www.hhs.gov/oirm/infocollect/pending/* or e-mail your request, including your address, phone number, OMB number, and OS document identifier, to *naomi.cook@hhs.gov,* or call the Reports Clearance Office on (202) 690–6162. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the OS Paperwork Clearance Officer designated at the following address: Department of Health and Human Services, Office of the Secretary, Assistant Secretary for Budget, Technology, and Finance, Office of Information and Resource Management, Attention: Naomi Cook (0937–0198), Room 531–H, 200 Independence Avenue, SW., Washington, DC 20201.

Dated: November 3, 2005.

Robert E. Polson,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 05–22571 Filed 11–14–05; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator (the Community); Announcement of Meeting

SUMMARY: This notice announces the second meeting of the American Health Information Community in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.) The American Health Information Community will advise the Secretary and recommend specific actions to achieve a common interoperability framework for health information technology (IT).

DATES: November 29, 2005 from 8:30 a.m. to 4 p.m.

ADDRESSES: Department of Health and Human Services' Hubert H. Humphrey building (200 Independence Ave., Southwest, Washington, DC 20201), conference room 800.

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit.*

SUPPLEMENTARY INFORMATION: A Web cast of the second Community meeting will be available on the NIH Web site at: *http://www.videocast.nih.gov/.*

Dated: November 8, 2005.

Dana Haza,

Acting Director of the Office of Programs and Coordination, Office of the National Coordinator.

[FR Doc. 05–22564 Filed 11–14–05; 8:45am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality; Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for the Pilot Testing of Electronic Prescribing Standards will be discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: Pilot Testing of Electronic Prescribing Standards—Cooperative Agreements.

Date: December 1, 2005 (Open on December 1 from 8 a.m. to 8:15 a.m. and closed for the remainder of the meeting).

Place: John M. Eisenberg Building, AHRQ Conference Center, 540 Gaither Road, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: November 3, 2005.

Carolyn M. Clancy,

Director.

[FR Doc. 05–22597 Filed 11–14–05; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Evaluation of the Refugee Social Service (RSS) and Targeted Assistance Formula Grant (TAG) Programs: Data Collection.

OMB No.: New Collection.

Description: The Office of Refugee Resettlement (ORR) within the U.S. Department of Health and Human Services (HHS) funds the Refugee Social Services (RSS) and Targeted Assistance Formula Grant (TAG) programs, which are designed to help refugees achieve economic success quickly following their arrival in the U.S. through employment services, English-language instruction, vocational training, and other social services. ORR is sponsoring a project to (1) conduct a comprehensive

evaluation of the effectiveness of ORR employability services through RSS and TAG, and (2) propose options for institutionalizing ongoing evaluation and performance assessment into the programs. ORR is requesting OMB clearance for three methods of information collection: (1) Interviews with state and local refugee program administrators and service providers in three sites to learn about service delivery and organizational arrangements, and with a small number of local employers who work with RSS- and TAG-funded service providers to learn about their experiences with the programs; (2) a sample of 1,125 refugees to collect data on refugees' employment an earnings outcomes; (3) two to four focus groups with seven to ten program clients in each of the three sites to obtain customer perspectives of the services they received and their adjustment experiences.

Respondents

(1) Interviews will be conducted with three state refugee coordinators, voluntary agency (VOLAG) and Mutual Assistance Association (MAA) staff, local RSS and TAG service providers, and employers who employ significant numbers of refugees.

(2) The respondents of the survey are refugees who have been in the United States for fewer than five years, and, thus, are eligible for RSS and TAG services. The survey relies on a mixed-mode data collection method that involves both telephone and in-person interviews. If individuals cannot be reached by phone, an attempt will be made to contact them in person. Approximately 900 of the 1,125 refugees sampled will complete the survey over a nine-week period.

(3) Respondents of the focus groups will include refugees who have received RSS- and TAG-funded services. Approximately 70 refugees will participate in the focus groups.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interviews with program staff	60	1	1	60
Interviews with employers	12	1	2	24
Survey of refugees	900	1	0.75	675
Focus group with program clients	70	1	2	140

Estimated Total Annual Burden Hours: 899.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Katherine_T._Astrich@omb.eop.gov.*

Dated: November 8, 2005.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 05–22625 Filed 11–14–05; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0317]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Record Retention Requirements for the Soy Protein and Risk of Coronary Heart Disease Health Claim

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 15, 2005.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Fumie Yokota, Desk Officer for FDA, FAX: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Record Retention Requirements for the Soy Protein and Risk of Coronary Heart Disease Health Claim—21 CFR 101.82(c)(2)(ii)(B) (OMB Control Number 0910–0428)—Extension

Section 403(r)(3)(A)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(3)(A)(i)) provides for the use of food label statements characterizing a relationship of any nutrient of the type required to be in the label or labeling of the food to a disease or a health related condition only where that statement meets the requirements of the regulations issued by the Secretary of Health and Human Services to authorize the use of such a health claim. Section 101.82 (21 CFR 101.82) of FDA's regulations authorizes a health claim for food labels about soy protein and the risk of coronary heart disease. To bear the soy protein/coronary heart disease health claim, foods must contain at least 6.25 grams of soy protein per reference amount customarily consumed. Analytical methods for measuring total protein can be used to quantify the

amount of soy protein in foods that contain soy as the sole source of protein. However, at the present time there is no validated analytical methodology available to quantify the amount of soy protein in foods that contain other sources of protein. For these latter foods, FDA must rely on information known only to the manufacturer to assess compliance with the requirement that the food contain the qualifying amount of soy protein. Thus, FDA requires manufacturers to have and keep records to substantiate the amount of soy protein in a food that bears the health claim and contains sources of protein other than soy, and to make such records available to appropriate regulatory officials upon written request. The information collected includes nutrient data bases or analyses, recipes or formulations, purchase orders for ingredients, or any other information that reasonably substantiates the ratio of soy protein to total protein.

In the **Federal Register** of August 23, 2005 (70 FR 49295), FDA published a 60-day notice requesting public comment on the information collection provisions. One comment was received that was not related to the information collection.

FDA estimates the burden of the collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR section	Number of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
101.82(c)(2)(ii)(B)	25	1	25	1	25

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based upon its experience with the use of health claims, FDA estimates that only about 25 firms would be likely to market products bearing a soy protein/coronary heart disease health claim and that only, perhaps, one of each firm's products might contain nonsoy sources of protein along with soy protein. The records required to be retained by § 101.82(c)(2)(ii)(B) are the records, e.g., the formulation or recipe, that a manufacturer has and maintains as a normal course of its doing business. Thus, the burden to the food manufacturer is that involved in assembling and providing the records to appropriate regulatory officials for review or copying.

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22636 Filed 11–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2005N–0424]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Survey on Program Funding

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Survey on Program Funding'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0574. The approval expires on April 30, 2006. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: November 8, 2005.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 05–22637 Filed 11–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Nonvoting Member Representing Industry Interests on a Public Advisory Committee; Nonprescription Drugs Advisory Committee

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for a nonvoting industry representative to serve on the Nonprescription Drugs Advisory Committee.

DATES: All letters of interest and nominations should be received on or before December 15, 2005.

ADDRESSES: Letters of intent and nominations for membership should be submitted to Jayne Peterson (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jayne Peterson, Advisors and Consultants Staff (HFD–21), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, e-mail: *petersonj@cder.fda.gov*.

SUPPLEMENTARY INFORMATION: The agency requests nominations for a nonvoting industry representative to serve on the Nonprescription Drugs Advisory Committee.

I. Function

The function of the committee is to review and evaluate available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this notice. Within the subsequent 30 days, FDA will send a letter to each organization that has expressed an interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested

organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for a particular committee. If no individual is selected within 60 days, the Commissioner of Food and Drugs will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. A current curriculum vitae and the name of the committee of interest should be sent to the FDA contact person. FDA will forward all nominations to the organizations expressing interest in participating in the selection process for that committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.)

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities, and small businesses are adequately represented on its advisory committees, and therefore, encourages nominations for appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from drug manufacturing industry.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app 2) and 21 CFR part 14, relating to advisory committees.

Dated: November 4, 2005.

Jason Brodsky,

Acting Associate Commissioner for External Relations.

[FR Doc. 05–22562 Filed 11–14–05; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22878]

Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Numbers: 1625–0022, 1625–0079, 1625–0088, 1625–0093, and 1625–0094.

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to seek the approval of OMB for the renewal of five Information Collection Requests (ICRs). The ICRs are: (1) 1625–0022, Application for Tonnage Measurement of Vessels; (2) 1625–0079, Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention; (3)1625–0088, Voyage Planning for Tank Barge Transits in the Northeast United States; (4) 1625–0093, Facilities Transferring Oil or Hazardous Materials in Bulk—Letter of Intent and Operations Manual; and (5) 1625–0094, Ships Carrying Bulk Hazardous Liquids. Before submitting the ICRs to OMB, the Coast Guard is inviting comments on them as described below.

DATES: Comments must reach the Coast Guard on or before January 17, 2006.

ADDRESSES: To make sure that your comments and related material do not enter the docket [USCG–2005–22878] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street SW, Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICRs are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street SW., Washington, DC 20593–0001. The telephone number is 202–267–2326.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–267–2326, or fax 202–267–4814, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request for comments by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2005–22878], indicate the specific section of the document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11,

2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

1. *Title:* Application for Tonnage Measurement of Vessels.

OMB Control Number: 1625–0022.

Summary: The information from this collection helps the Coast Guard to determine a vessel's tonnage. Tonnage in turn helps to determine licensing, inspection, safety requirements, and operating fees.

Need: 46 U.S.C. 14104 requires the measurement of certain vessels for tonnage. 46 CFR part 69 prescribes the rules for this measurement.

Respondents: Owners of vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 33,000 hours to 38,000 hours a year.

2. *Title:* Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1995 and 1997 Amendments to the International Convention.

OMB Control Number: 1625–0079.

Summary: This information is necessary to ensure compliance with the international requirements of the STCW Convention, and to maintain an acceptable level of quality in activities associated with training and assessment of merchant mariners.

Need: Title 46 U.S.C. chapter 71 authorizes the Coast Guard to issue regulation related to licensing of merchant mariners. Title 46 CFR subchapter I, subchapter B, prescribe the regulations.

Respondents: Owners and operators of vessels, training institutions, and mariners.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 18,693 hours to 23,767 hours a year.

3. *Title:* Voyage Planning for Tank Barge Transits in the Northeast United States.

OMB Control Number: 1625–0088.

Summary: The information collection requirement for a voyage plan serves as a preventive measure and assists in ensuring the successful execution and completion of a voyage in the First Coast Guard District. This regulation (33 CFR 165.100), issued under authority of sec. 311 of Pub. L. 105–383, 112 Stat. 3411, and 33 U.S.C 1231, applies to primary towing vessels engaged in towing certain tank barges carrying petroleum oil in bulk as cargo.

Need: The information for a voyage plan will provide a mechanism for assisting vessels towing tank barges to identify those specific risks, potential equipment failures, or human errors that may lead to accidents.

Respondents: Owners and operators of towing vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 420 hours to 31,651 hours a year.

4. *Title:* Facilities Transferring Oil or Hazardous Materials in Bulk—Letter of Intent and Operations Manual.

OMB Control Number: 1625–0093.

Summary: A Letter of Intent is a notice to the Coast Guard Captain of the Port that an operator intends to operate a facility that will transfer bulk oil or hazardous materials to or from vessels. An Operations Manual (OM) is also required for this type of facility. The OM establishes procedures to follow when conducting transfers and in the event of a spill.

Need: Title 33 U.S.C. 1321 authorizes the Coast Guard to prescribe pollution prevention regulation. Title 33 CFR 154.110 prescribes the regulations related to a Letter of Intent and 33 CFR 154 subpart B prescribe the regulations related to an OM.

Respondents: Operators of facilities that transfer oil or hazardous materials in bulk.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 27,819 hours to 47,200 hours a year.

5. *Title:* Ships Carrying Bulk Hazardous Liquids.

OMB Control Number: 1625–0094.

Summary: This information is needed to ensure the safe transport of bulk hazardous liquids on chemical tank vessels and to protect the environment from pollution.

Need: Title 46 U.S.C. 3703 authorizes the Coast Guard to prescribe regulations for protection of against hazards to life, property and the marine environment. Title 46 CFR part 153 prescribe regulations for the safe transport by vessel of bulk hazardous liquids.

Respondents: Owners and operators of chemical tank vessels.

Frequency: On occasion.

Burden Estimate: The estimated burden has increased from 738 hours to 1,959 hours a year.

Dated: November 7, 2005.

R.T. Hewitt,

Rear Admiral, Assistant Commandant for Command, Control, Communications Computers and Information Technology.

[FR Doc. 05–22575 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2005–22964]

Towing Safety Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting.

SUMMARY: The Licensing Working Group of the Towing Safety Advisory Committee (TSAC) will meet to discuss matters relating to specific issues of towing safety. The meetings will be open to the public.

DATES: The Licensing Working Group will meet on Thursday, December 1, 2005 from 8 a.m. to 3:30 p.m. (local). The meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before November 28, 2005. Requests to have a copy of your material distributed to each member of the Working Group should reach the Coast Guard on or before November 28, 2005.

ADDRESSES: The Working Group will meet at the offices of the National Maritime Center—9th floor conference room; 4200 Wilson Blvd.; Arlington, VA 22203–1804. Please bring a government-issued, photo ID. Send written material and requests to make oral presentations to Mr. Gerald Miante, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice and related documents are available on the Internet at *http://dms.dot.gov* under the docket number USCG–2005–22964.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Miante, Assistant Executive Director of TSAC, telephone 202–267–0214, fax 202–267–4570, or e-mail *gmiante@comdt.uscg.mil.* If you plan to attend the meeting, please notify Ms. Jennifer Carpenter, American Waterways Operators; at (703) 841–9300 by November 28, 2005. For security purposes, your name must be on a pre-vetted list.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2 (Pub.L.92–463, 86 Stat.770, as amended).

Agenda of Working Group Meeting: The agenda for the Licensing Working Group tentatively includes the following item:

The development of an approved model training program for towing vessel wheelhouse personnel.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Assistant Executive Director (as provided above in **FOR FURTHER INFORMATION CONTACT**) no later than November 28, 2005. Written material for distribution at the meeting should reach the Coast Guard no later than November 28, 2005.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Mr. Miante at the number listed in **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Dated: November 8, 2005.

Howard L. Hime,

Acting Director of Standards, Marine Safety, Security and Environmental Protection.

[FR Doc. 05–22596 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091305C]

Notice of Intent to Conduct Public Scoping Meetings and to Prepare an Environmental Impact Statement Related to the Bi-State Water Diversion Habitat Conservation Plan for the Walla Walla River Basin

AGENCIES: Fish and Wildlife Service (FWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent to conduct scoping meetings.

SUMMARY: The U.S. Fish and Wildlife Service and National Marine Fisheries Service (Services) advise interested parties of their intent to conduct public scoping under the National Environmental Policy Act (NEPA), to gather information to prepare an Environmental Impact Statement (EIS). The Services anticipate receiving permit applications from Gardena Farms Irrigation District (GFID), Hudson Bay District Improvement Company (HBDIC), and the Walla Walla River Irrigation District (WWRID). Other surface water diverters in the Walla Walla Basin, such as independent irrigators, ditch companies, and other local governments, may also apply. The permit applications would be submitted under the Endangered Species Act (ESA) for the incidental take of listed species through actions associated with the Bi-State Habitat Conservation Plan (HCP) for the Walla Walla River Basin. Given the present list of likely permit applicants, the geographic scope of the permit would be that portion of the mainstem Walla Walla River downstream from the Walla Walla River Irrigation District's diversion. If other surface water diverters apply for permits, the geographic scope would be expanded accordingly to include those stream reaches within the Walla Walla Basin that are potentially affected by those diversions. The proposed actions to be covered by the permit would be those activities undertaken by the applicants that are associated with the diversion and delivery of surface water.

DATES: Four scoping meetings will be held in November 2005. They will include one meeting for the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), one for all interested and affected agencies, and two for the public. Meeting locations and times will be published in the local newspapers of record:

1. Public scoping meeting, November 16, 2005, 7 p.m.–9 p.m.
2. Public scoping meeting, November 17, 2005, 7 p.m.–9 p.m.
3. Agency scoping meeting, November 17, 2005, 1:30 p.m.–3:30 p.m.
4. CTUIR scoping meeting, November 18, 2005, 9 a.m.–10 a.m.Written comments should be received on or before December 30, 2005.

ADDRESSES: The meeting locations are:

1. Public scoping meeting,Washington State Department of Transportation (Conference Room) 1210 G Street, Walla Walla, WA 99362.
2. Public scoping meeting, Milton Freewater Library (Albee Room), 8 SW 8th Avenue, Milton-Freewater, OR 97862.
3. Agency scoping meeting, Washington State Department of Transportation (Conference Room) 1210 G Street, Walla Walla, WA 99362.
4. CTUIR scoping meeting, 73239 Confederated Way, Mission, OR 97801.

All comments concerning the preparation of the EIS and the NEPA process should be addressed to: Ms. Michelle Eames, FWS, 1103 East Montgomery Drive, Spokane, Washington 99206, facsimile 509–891–6748; or Mr. Dale Bambrick, NMFS, 304 S. Water Street, Suite 200, Ellensburg, WA 98926, facsimile 509–962–8544. E-mail comments may be submitted to the following address: *WallaWallaHCP@fws.gov*. In the subject line of the e-mail, include the document identifier: Walla Walla HCP-EIS.

FOR FURTHER INFORMATION CONTACT: Michelle Eames, FWS, (509)-891–6839, or Dale Bambrick, NMFS, (509) 962–8911.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Section 9 of the ESA (16 U.S.C. 1538) and its implementing regulations (50 CFR 17.21(c), 17.31(a)) prohibit the ''taking'' of animal species listed as endangered or threatened. The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). ''Harm'' is defined by FWS regulation to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727, November 8, 1999).

Section 10 of the ESA and implementing regulations provide for the issuance of incidental take permits (ITPs) to non-Federal applicants to authorize incidental take of endangered and threatened species (16 U.S.C. 1539(a); 50 CFR 17.22(b), 17.32(b)). Any proposed take must be incidental to an otherwise lawful activity, must not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and must be minimized and mitigated to the maximum extent practicable. In addition, an applicant must prepare an HCP describing the impact that will likely result from such taking, a plan for minimizing and mitigating the impacts of such incidental take, the funding available to implement the plan, alternatives to such taking, and the reason such alternatives are not being implemented.

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the

actions may significantly affect the human environment. Under NEPA, a reasonable range of alternatives to the proposed project is developed and considered in the Services' EIS. Alternatives considered for analysis in an EIS may include: variations in the scope or types of covered activities; variations in the location, amount, and types of conservation measures; timing of project activities; variations in permit duration; or a combination of these elements. In addition, an EIS will identify potentially significant direct, indirect, and cumulative effects on biological resources, land use, air quality, water quality, water resources, socioeconomics, minority communities, cultural resources, and other environmental issues that could occur with the implementation of the applicant's proposed actions and alternatives. An EIS will identify all potentially significant environmental effects and what steps will be taken to reduce these effects, where feasible, to a level below significance.

Background

The proposed EIS would analyze the potential issuance of two ITPs, one by NMFS and one by the FWS. To obtain an ITP, the applicants must prepare a Habitat Conservation Plan (HCP) that meets the issuance criteria established by the ESA and Service regulations (50 CFR 17.22(b)(2) 17.32(b), 222.307). Should a permit or permits be issued, the permit(s) may include assurances under the Service's ''No Surprises'' regulations. The NEPA scoping process will identify and evaluate the range of alternatives and issues to be addressed in the EIS. If additional potential applicants or conservation measures are identified that are distinctly different from those above, the scoping process may be revisited.

The Walla Walla Basin is located in southeast Washington and northeast Oregon. The basin encompasses approximately 1,800 square miles (4,698 Km) in Columbia and Walla Walla, Counties in Washington, and Umatilla, Union, and Wallowa Counties in Oregon. The activities anticipated to be covered include all activities associated with the diversion and delivery of surface water that have the potential to affect species subject to protection under the ESA, as well as other, unlisted, species of concern to the Services.

The species currently listed under the ESA that are being proposed for coverage under an ITP include the bull trout (*Salvelinus confluentus*), under the jurisdiction of the FWS, and the Mid-Columbia River evolutionarily significant unit of steelhead (*Oncorhynchus mykiss*), under the jurisdiction of NMFS, both currently listed as threatened. Other listed or unlisted species may also be considered and addressed.

Proposed conservation measures that the applicants may incorporate include, but are not limited to: curtailment of surface diversions, seasonal diversion reductions, water quality improvements, and physical habitat enhancements.

A draft HCP, to be prepared by the applicants in support of their ITP applications, will describe the impacts of take on the proposed covered species, and will propose a conservation strategy to minimize and mitigate impacts on each covered species to the maximum extent practicable. The draft will also identify funding for the conservation plan, as well as the HCP alternatives and will explain why those alternatives are not being utilized. The Services are responsible for determining whether the draft HCP satisfies ESA section 10 issuance criteria.

Under NEPA, a reasonable range of alternatives to a proposed project must be developed and considered in the Services' EIS. The Services have identified the following preliminary alternatives for public comment during the public scoping period:

Alternative 1: No Action Alternative - Under the No Action Alternative, an ITP would not be issued and an HCP would not be approved. The current FWS Settlement Agreement (Agreement) would continue through January 2007 and would need to either be extended or renewed for an additional time period, or end. If the Agreement is renewed, it could include additional instream flow requirements and/or other requirements. If the Agreement is not renewed or extended, then the districts could be open to enforcement actions due to ESA violations, and the stream could be dewatered again, as it was prior to 2001. Continued operational and capital improvements could be made by the districts.

Alternative 2: Proposed Action Alternative - NMFS and the FWS would each issue ESA incidental take permits, and full implementation of the HCP would occur. The HCP would include a set of conservation measures specific to each applicant that would minimize and mitigate the impacts of the project to the maximum extent practicable.

Alternative 3: Programmatic HCP Alternative - Under this alternative, independent irrigators, irrigation districts, ditch companies, and/or municipalities may participate in the HCP described under the Proposed Action Alternative. They would participate by either signing a Certificate of Inclusion that would cover their activities under another applicant's permit, rather than developing a separate HCP; or through separate FWS and NMFS authoization under ESA Section 7 or 10 to cover their activities. If these future participants do not adopt the HCP described under the Proposed Action, it is possible that additional NEPA review would be required at the time their request for ESA coverage is received by the Services. If participants choose to adopt the HCP, a site-specific plan would be developed and approved by both agencies. If the adoption includes modifications to the HCP, the Services would ensure that the NEPA review for the HCP included these conditions, and if not, would comply with NEPA to provide a review on such modifications.

Alternative 4: Reduced Take Alternative - Under this alternative the proposed HCP would be modified by changing or adding measures to further reduce the amount and risk of incidental take. These measures could include different conservation measures, covered species, covered lands, covered activities, and/or permit duration. Additional project alternatives may be developed based on input received from the public scoping process.

Request for Comments

The primary purpose of the scoping process is for the public to assist the Services in developing the EIS by identifying important issues and alternatives related to the proposed action. Each scoping meeting will allocate time for informal discussion and questions with presentations by the Services and potential applicants. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices listed in the **ADDRESSES** section of this notice.

The Services request that comments be specific. In particular, we request information regarding: direct, indirect, and cumulative impacts that implementation of the proposed HCP could have on covered species and their habitats and on the built, social, economic, natural and cultural environments; strategies for meeting the purpose and need, in particular strategies for improving instream flows; potential adaptive management and/or monitoring provisions; funding issues; existing environmental conditions in

the project area; other plans or projects that might be relevant to this proposed project; and minimization and mitigation efforts. The Services estimate that a draft EIS will be available for public review late in 2006.

Reasonable Accommodation

Persons needing reasonable accommodations to attend and participate in public meetings should contact Michelle Eames (see **FOR FURTHER INFORMATION CONTACT**). To allow sufficient time to process requests, please call no later than 1 week before the scheduled public meeting. Information regarding this proposed action is available in alternative formats upon request. A Spanish interpreter will be available at all public meetings.

Dated: November 7, 2005.

Daniel H. Diggs,

Acting Deputy Regional Director, Fish and Wildlife Service, Region 1, Portland, Oregon.

Dated: November 7, 2005.

Angela Somma,

Division Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 05–22632 Filed 11–14–05; 8:45 am]

BILLING CODES 3510–22–S, 4310–55–S

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–010–06–1020PH]

Notice Public Meetings: Northeastern Great Basin Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Fiscal Year 2006 Meetings Locations and Times for the Northeastern Great Basin Resource Advisory Council (Nevada).

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Nevada Northeastern Great Basin Resource Advisory Council (RAC), will meet as indicated below. Topics for discussion at each meeting will include, but are not limited to: February 16, 2006 (Battle Mountain, Nevada)—Land Tenure, Sage Grouse Conservation Projects, Shoshone Range Off-Highway Vehicle Trail; tentatively April 27, 2006 (Eureka, Nevada); June 15, 2006 (Ely, Nevada)—Ely Resource Management Plan Comments, Minerals activities update; August 17 & 18, 2006 (Wells, Nevada)—Travel Management Planning, Spruce Mountain Tour. Managers' reports of field office activities will be given at each meeting. The council may raise other topics at any of the three planned meetings.

DATES: The RAC will meet three or four times in Fiscal Year 2006: on February 16, 2006 at the BLM Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, Nevada; tentatively on April 27 at the Eureka Opera House at 31 South Main, Eureka, Nevada; on June 15, 2006 at the Bristlecone Convention Center, 150 6th Street, Ely, Nevada; and on August 17 & 18 at the old El Rancho Hotel, 1629 Lake Avenue, Wells, Nevada. All meetings are open to the public. Each meeting will last from 8 a.m. to 4 p.m. and will include a general public comment period, where the public may submit oral or written comments to the RAC. Each public comment period will begin at approximately 1 p.m. unless otherwise listed in each specific, final meeting agenda.

Final detailed agendas, with any additions/corrections to agenda topics, locations, field trips and meeting times, will be sent to local and regional media sources at least 14 days before each meeting, and hard copies can also be mailed or sent via FAX. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish a hard copy of each agenda, should contact Mike Brown, Elko Field Office, 3900 East Idaho Street, Elko, Nevada 89801, telephone (775) 753–0386 no later than 10 days prior to each meeting.

FOR FURTHER INFORMATION CONTACT: Mike Brown, Public Affairs Officer, Elko Field Office, 3900 E. Idaho Street, Elko, NV 89801. Telephone: (775) 753–0386. E-mail: *mbrown@nv.blm.gov.*

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management (BLM), on a variety of planning and management issues associated with public land management in Nevada. All meetings are open to the public. The public may present written comments to the Northeastern Great Basin Resource Advisory Council.

Dated: November 7, 2005.

Helen Hankins,

Field Office Manager.

[FR Doc. 05–22594 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease NMNM 9023

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Section 371(a) of the Energy Policy Act of 2005, the lessee(s), Anderson Oil Ltd., John M. Beard Trust, and Patina Oklahoma Corp., timely filed a petition for reinstatement of oil and gas lease NMNM 9023 in Lea County, NM. The lessee paid the required rental accruing from the date of termination, March 1, 2003. No leases were issued that affect these lands. The lessee agrees to the new lease terms for rentals and royalties of $5 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $166 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188(e)). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $5 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $166 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: October 27, 2005.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 05–22623 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease TXNM 100506

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Section 371(a) of the Energy Policy Act of 2005, the lessee, Chief Oil and Gas LLC, timely filed a petition for reinstatement of oil and gas lease TXNM 100506 in Wise County, TX. The lessee paid the required rental accruing from the date of termination, March 1, 2002.

No leases were issued that affect these lands. The lessee agrees to the new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $166 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188(e)). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $166 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: October 26, 2005.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 05–22621 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease TXNM 100507

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of Section 371(a) of the Energy Policy Act of 2005, the lessee, Chief Oil and Gas LLC, timely filed a petition for reinstatement of oil and gas lease TXNM 100507 in Wise County, TX. The lessee paid the required rental accruing from the date of termination, March 1, 2002.

No leases were issued that affect these lands. The lessee agrees to the new lease terms for rentals and royalties of $10 per acre and 16⅔ percent or 4 percentages above the existing competitive royalty rate. The lessee paid the $500 administration fee for the reinstatement of the lease and $166 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Sec. 31(e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188(e)). We are proposing to reinstate the lease, effective the date of termination subject to:

- The original terms and conditions of the lease;
- The increased rental of $10 per acre;
- The increased royalty of 16⅔ percent or 4 percentages above the existing competitive royalty rate; and
- The $166 cost of publishing this Notice.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: October 26, 2005.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 05–22622 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UTU 80808]

Public Land Order No. 7649; Withdrawal of Public Land for the Moab Mill Site Remediation Project; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 2,300 acres of public land from location and entry under the United States mining and mineral leasing laws, for a period of 5 years, and reserves the land for use by the Department of Energy to conduct site characterization studies to determine a suitable location for disposal of uranium mill site tailings in connection with the Moab Mill Site Remediation Project.

Effective Date: November 15, 2005.

FOR FURTHER INFORMATION CONTACT: Mary von Koch, BLM Moab Field Office, 82 East Dogwood Avenue, Moab, Utah 84532, 435–259–2128.

SUPPLEMENTARY INFORMATION: The land has been and remains open to geothermal leasing and mineral material disposal.

Order

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Subject to valid existing rights, the land described below is hereby withdrawn from location and entry under the United States mining laws, 30 U.S.C. Ch. 2 (2000), and from leasing under the mineral leasing laws, 30 U.S.C. 181 *et seq.* and 30 U.S.C. 351 *et seq.* (2000), and reserved for use by the Department of Energy to protect the Moab Mill Site Remediation Project.

Salt Lake Meridian

T. 21 S., R. 19 E.,
- Secs. 22 and 23, the land lying South of the Bookcliffs;
- Sec. 24, lots 1, 2 and 3, the land in lot 4 lying North of the railroad right-of-way, the land in the W½ lying South of the Bookcliffs, and the land in the W½E½ lying North of the railroad right-of-way;
- Sec. 25, the land in the N½NW¼ lying North of the railroad right-of-way;
- Sec. 26, the land in the N½ and NW¼SW¼ lying North of the railroad right-of way;
- Sec. 27, N½, N½SW¼, the land in the S½SW¼ and SE¼ lying North of the railroad right-of-way.

The area described contains approximately 2,300 acres in Grand County.

2. This withdrawal will expire 5 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

Dated: October 28, 2005.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 05–22605 Filed 11–14–05; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Outer Continental Shelf (OCS), Scientific Committee (SC)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of vacancies and request for nominations.

SUMMARY: The MMS is seeking interested and qualified individuals to serve on its OCS SC during the period of March 31, 2006, through March 30, 2008. The initial 2-year term may be renewable for up to an additional 4 years. The OCS SC is chartered under the Federal Advisory Committee Act to advise the Director of the MMS on the appropriateness, feasibility, and scientific value of the OCS Environmental Studies Program (ESP) and environmental aspects of the offshore energy and marine minerals programs. The ESP, which was authorized by the OCS Lands Act as amended (Section 20), is administered by the MMS and covers a wide range of field and laboratory studies in biology, chemistry, and physical oceanography, as well as studies of the social and economic impacts of OCS energy and

marine minerals development. Currently, the work is conducted through award of competitive contracts and interagency and cooperative agreements. The OCS SC reviews the relevance of the information being produced by the ESP and may recommend changes in its scope, direction, and emphasis.

The OCS SC comprises distinguished scientists in appropriate disciplines of the biological, physical, chemical, and socioeconomic sciences. Vacancies which need to be filled exist in the social and biological science disciplines. The selection is based on maintaining disciplinary expertise in all areas of research, as well as geographic balance. Demonstrated knowledge of the scientific issues related to OCS oil and gas development is essential. Selection is made by the Department of the Interior on the basis of these factors; appointments to the Committee are made by the Secretary of the Interior.

Ethics Responsibilities of Members

No Council or subcommittee member shall participate in any matter specifically concerning a lease, license, permit, contract, claim, agreement or related litigation in which the member has a direct interest.

Under applicable ethic laws, appointments carry with it the status of ''special government employee.'' This means that Committee members will be subject to many of the same standards of conduct that apply to Federal employees in general, including the avoidance of conflict of interest and the filing of confidential financial disclosure forms.

Interested individuals should send a letter of interest and resume within 30 days to: Ms. Phyllis Clark, Offshore Minerals Management, Minerals Management Service, 381 Elden Street, Mail Stop 4041, Herndon, Virginia 20170. She may be reached by telephone at (703) 787–1716.

Authority: Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget's Circular A–63, Revised.

Dated: October 17, 2005.

Thomas A. Readinger,

Associate Director for Offshore Minerals Management.

[FR Doc. 05–22631 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[FES–05–27]

Flaming Gorge Dam, Colorado River Storage Project, UT

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the operation of Flaming Gorge Dam final environmental impact statement.

SUMMARY: The Bureau of Reclamation (Reclamation), the federal agency responsible for operation of Flaming Gorge Dam, in cooperation with the Bureau of Indian Affairs, Bureau of Land Management, National Park Service, State of Utah Department of Natural Resources, U.S. Fish and Wildlife Service, U.S.D.A. Forest Service, Utah Associated Municipal Power Systems, and Western Area Power Administration, has prepared and made available to the public a final environmental impact statement (EIS) pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), as amended, 42 United States Code (U.S.C.) 4332.

ADDRESSES: Copies of the EIS are available from Mr. Peter Crookston, Flaming Gorge EIS Manager, PRO–774, Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84606–7317; telephone (801) 379–1152; faxogram (801) 379–1159; e-mail: *fgeis@uc.usbr.gov*. The EIS is also available on Reclamation's Web site at *http://www.usbr.gov/uc/* (click on Environmental Documents and then click on Operation of Flaming Gorge Dam Environmental Impact Statement).

Copies of the EIS are available for public review and inspection at the following locations:

- Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102
- Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84606–7317
- Colorado Department of Natural Resources, Attention: Russell George, Executive Director, 1313 Sherman Street, Room 718, Denver, Colorado 80203
- Colorado Department of Local Affairs, Attention: Eric Bergman, 1313 Sherman Street, Room 521, Denver, Colorado 80203
- Utah State Clearinghouse, Attention: Carolyn Wright, Department of Natural Resources, 1594 West North Temple, Suite 3710, Salt Lake City, Utah 84114
- Wyoming Department of Environmental Quality, 122 West 25th Street, Herschler Building 4th Floor—West, Cheyenne, Wyoming 82002

Libraries

- Salt Lake City Public Library, 210 East 400 South, Salt Lake City, Utah 84111
- Rock Springs Library, 400 C Street, Rock Springs, Wyoming 82901
- Sweetwater County Library, 300 North 1st East Street, Green River, Wyoming 82935
- Daggett County Library, 85 North 1st Street West, Manila, Utah 84046
- Ute Indian Tribe Library, P.O. Box 190, Fort Duchesne, Utah 84026
- Green River City Library, 85 South Long, Green River, Utah 84525
- Mesa County Public Library, 530 Grand Avenue, Grand Junction, Colorado 81501
- Uintah County Library, 155 East Main Street, Vernal, Utah 84078
- Duchesne County Library, 70 West Lagoon Street, Roosevelt, Utah 84066
- Grand County Library, 25 South 100 East, Moab, Utah 84532

FOR FURTHER INFORMATION CONTACT: Mr. Peter Crookston, Flaming Gorge EIS Manager, PRO–774, Bureau of Reclamation, Provo Area Office, 302 East 1860 South, Provo, Utah 84606–7317; telephone (801) 379–1152; faxogram (801) 379–1159; e-mail: *fgeis@uc.usbr.gov*.

SUPPLEMENTARY INFORMATION: The Operation of Flaming Gorge Dam Final Environmental Impact Statement describes the potential effects of modifying the operation of Flaming Gorge Dam to assist in the recovery of four endangered fish, and their critical habitat, downstream from the dam. The purpose of the proposed action is to operate Flaming Gorge Dam to protect and assist in recovery of the populations and designated critical habitat of four endangered fishes, while maintaining all authorized purposes of the Flaming Gorge Unit of the Colorado River Storage Project (CRSP), particularly those related to the development of water resources in accordance with the Colorado River Compact.

The EIS describes and analyzes the potential effects of two alternatives. Under the No Action Alternative, operations under the conditions imposed by the 1992 Biological Opinion would continue. Under the Action Alternative, operations would be in accordance with the flow and temperature regimes described in the *Flow and Temperature Recommendations for Endangered Fish in the Green River Downstream of*

Flaming Gorge Dam (2000 Flow and Temperature Recommendations) published in September 2000 by the Upper Colorado River Endangered Fish Recovery Program (Recovery Program).

Background

Flaming Gorge Dam, located on the Green River in northeastern Utah about 200 miles east of Salt Lake City, is an authorized storage unit of the Colorado River Storage Project. Flaming Gorge Dam was completed in 1962 and full operation of the dam and reservoir began in 1967. The powerplant, located at the base of the dam, began commercial operation in 1963 and was completed in 1964. Reclamation operates the dam and powerplant and the Western Area Power Administration markets the power.

Reclamation proposes to take action to protect and assist in recovery of the populations and designated critical habitat of the four endangered fishes found in the Green and Colorado River Basins, while maintaining all authorized purposes of the Flaming Gorge Unit of the CRSP. The four endangered fish species are the Colorado pikeminnow (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), razorback sucker (*Xyrauchen texanus*), and bonytail (*Gila elegans*). Reclamation would implement the proposed action by modifying the operation of Flaming Gorge Dam, to the extent possible, to achieve the flows and temperatures recommended by participants of the Recovery Program. Reclamation's goal is to implement the proposed action and, at the same time, maintain and continue all authorized purposes of the CRSP.

The recommended flows and temperatures are intended to provide water releases of sufficient magnitude and, with the proper timing and duration, to assist in the recovery of the endangered fishes and their designated critical habitat.

Purpose and Need for Action

The purpose of the proposed action is to operate Flaming Gorge Dam to protect and assist in recovery of the populations and designated critical habitat of the four endangered fishes, while maintaining all authorized purposes of the Flaming Gorge Unit of the CRSP, particularly those related to the development of water resources in accordance with the Colorado River Compact. The proposed action is needed for the following reasons:

- The operation of Flaming Gorge Dam, under its original operating criteria, jeopardized the continued existence of the endangered fishes in the Green River.
- Reclamation is required to comply with the Endangered Species Act (ESA) for the operation of CRSP facilities, including Flaming Gorge Dam. Within the exercise of its discretionary authority, Reclamation must avoid jeopardizing the continued existence of listed species and destroying or adversely modifying designated critical habitat.
- The Reasonable and Prudent Alternative (RPA) to the 1992 Biological Opinion on the Operation of Flaming Gorge Dam required modification of Flaming Gorge releases to benefit the endangered fish, a five-year study period to evaluate winter and spring flows, and reinitiation of discussions with the U.S. Fish and Wildlife Service following the study period to further refine the flow recommendations. With the results of these studies, as well as other relevant information, the Recovery Program developed and approved the 2000 Flow and Temperature Recommendations report for the Green River. These recommendations are an extension of the 1992 jeopardy Biological Opinion RPA. Reclamation committed to assist in meeting flow requirements through the refined operation of Flaming Gorge Dam and other federal reservoirs in the 1987 agreement that formed the Recovery Program.
- Flaming Gorge Dam and Reservoir is the primary water storage and delivery facility on the Green River upstream from its confluence with the Colorado River. The storage capacity and ability to control water releases of Flaming Gorge Dam allow Reclamation flexibility in providing flow and temperature management to protect and assist in the recovery of endangered fish populations and their critical habitat within specific reaches of the river. Thus, the refined operation of Flaming Gorge Dam is a key element of the Recovery Program.
- The refined operation will offset the adverse effects of flow depletions from the Green River for certain Reclamation water projects in Utah, as defined by existing jeopardy Biological Opinions. Modifying the operation of Flaming Gorge Dam will also serve as the RPA, as defined by the ESA, to offset jeopardy to endangered fishes and their critical habitat that could result from the operation of numerous other existing or proposed water development projects in the Upper Colorado River Basin.

Proposed Federal Action

Reclamation proposes to take action to protect and assist in recovery of the populations and designated critical habitat of the four endangered fishes found in the Green and Colorado River Basins. Reclamation would implement the proposed action by modifying the operations of Flaming Gorge Dam, to the extent possible, to achieve the flows and temperatures recommended by participants of the Recovery Program. Reclamation's goal is to implement the proposed action and, at the same time, maintain and continue all authorized purposes of the CRSP.

The draft environmental impact statement was issued to the public in early September 2004 and a Notice of Availability of the draft EIS was published in the **Federal Register** on September 10, 2004. The 60-day review and comment period for the draft EIS ended on November 15, 2004. During the public comment period, five public hearings were held and over 600 public comments were received. All written and oral comments received were carefully reviewed and considered in preparing the final environmental impact statement. Where appropriate, revisions were made to the document in response to specific comments. The comments and responses, together with the final environmental impact statement, will be considered in determining whether or not to implement the proposed action.

No decision will be made on the proposed federal action until at least 30 days after release of the EIS. After the 30-day waiting period, Reclamation will complete a Record of Decision. The Record of Decision will state which alternative analyzed in the EIS will be implemented and discuss all factors leading to that decision.

Dated: October 7, 2005.

Rick L. Gold,

Regional Director—UC Region, Bureau of Reclamation.

[FR Doc. 05–22436 Filed 11–14–05; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

Agency Form Submitted for OMB Review

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission has submitted an emergency request for approval of questionnaires to the Office of Management and Budget (OMB) for review. The Commission has requested OMB approval by November 14, 2005.

DATES: To be assured of consideration, written comments must be submitted to OMB and to the Commission by November 14, 2005.

Purpose of Information Collection: The forms are for use by the Commission in connection with investigation No. 332–471, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2005 Special Review on Watches*, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). This investigation was requested by the United States Trade Representative (USTR). The Commission expects to deliver the results of its investigation to USTR by February 17, 2006.

Summary of Proposal:

(1) *Number of forms submitted:* Eight.

(2) *Title of form:* Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2005 Special Review on Watches—Questionnaires for U.S. Producers/Assemblers; U.S. Virgin Islands Producers/Assemblers; Watch Band, Strap, and/or Bracelet Producers; Importers, and Foreign Producers.

(3) *Type of request:* New.

(4) *Frequency of use:* Single data gathering, scheduled for November 15–December 14, 2005.

(5) *Description of respondents:* U.S. firms which produce/assemble or import watches or watch components.

(6) *Estimated number of respondents:* 56 (Producer/Assembler questionnaire).

11 (Importer questionnaire).

2 (Foreign Producer questionnaire).

(7) *Estimated total number of hours to complete the forms:* 2,590.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the forms and supporting documents may be obtained from Gail Burns (USITC, telephone no. (202) 205–2501 or *gail.burns@usitc.gov*). Comments about the questionnaires should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Room 10102 (Docket Library), Washington, DC 20503, *Attention:* Desk Officer for International Trade Commission. All comments should be specific, indicating which part of the questionnaire is objectionable, describing the concern in detail, and including specific suggested revisions or language changes. Copies of any comments should be provided to Robert Rogowsky, Director, Office of Operations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, who is the Commission's designated Senior Official under the Paperwork Reduction Act.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal (telephone no. 202–205–1810). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

Issued: November 7, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–22560 Filed 11–14–05; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Submission for OMB Review; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Agency proposal for the collection of information submitted to the Office of Management and Budget (OMB) for review; comment request.

SUMMARY: In accordance with the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to OMB for approval. The proposed information collection is an user survey that solicits feedback on the investigative procedures used by the Commission in its import injury investigations. Comments concerning the proposed user survey are requested in accordance with the Paperwork Reduction Act of 1995. The OMB is particularly interested in comments which:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

DATES: Comments must be submitted to OMB within 30 days of the date this notice appears in the **Federal Register**.

ADDRESSES: Comments should be sent to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection proposal can be obtained from Debra Baker, Office of Investigations, U.S. International Trade Commission (telephone no.—202–205–3180; e-mail—*Debra.Baker@usitc.gov*). General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION:

OMB Number: 3117–0192 (reinstatement without change).

Title: United States International Trade Commission Import Injury Investigation User Survey.

Type of Review: Regular submission.

Respondents: Law firms and economic consulting groups.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 50 hours.

Needs and Uses: The proposed information collection seeks to gather feedback to allow the Commission to ensure that its procedures for its import injury investigations are fair and are equitably implemented. The user survey asks if the Commission's rules and other written guidance make clear to participants what the Commission expects of them procedurally in an investigation; if there are area(s) where additional guidance would be of benefit to their participation in investigations; if the Commission personnel responded to procedural inquiries in a helpful way; if their access to information collected by/submitted to the Commission was satisfactory; and if they have any other comments or recommended improvements.

Issued: November 9, 2005.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 05–22653 Filed 11–14–05; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request Regulation Regarding Participant Directed Individual Account Plans Under ERISA 404(c)

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that the data the Department gathers can be provided in the desired format, that the reporting burden on the public (time and financial resources) is minimized, that the public understands the Department's collection instruments, and that the Department can accurately assess the impact of collection requirements on respondents.

Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments concerning an extension of the information collections in regulation section 2550.404c–1, pertaining to participant-directed individual account plans under section 404(c) of the Employee Retirement Income Security Act of 1974 (ERISA). A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted on or before January 17, 2006.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to Susan G. Lahne, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 404(c) of ERISA provides that, if an individual account pension plan permits a participant or beneficiary to exercise control over assets in his or her account and the participant or beneficiary in fact exercises such control, the participant or beneficiary shall not be deemed to be a fiduciary by such exercise of control and no person otherwise a fiduciary shall be liable for any loss or breach that results from the participant's or beneficiary's exercise of control.

The Department's regulation at 29 CFR 2550.404c–1 describes the circumstances in which a participant or beneficiary will be considered to have exercised independent control over the assets in his or her individual account as contemplated in section 404(c). The regulation specifies information that must be made available to participants or beneficiaries in order for them to exercise independent control over the assets in their individual accounts. The regulation provides that the relief from fiduciary liability specified in section 404(c) is not available with respect to a transaction undertaken by a participant or beneficiary unless the specific information is provided to the participant or beneficiary. EBSA submitted the information collection provisions in the regulation to the Office of Management and Budget (OMB) for review in an information collection request (ICR) in connection with promulgation of the final rulemaking, and OMB approved the ICR under OMB Control No. 1210–0090. The ICR approval is scheduled to expire on February 28, 2006.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, by permitting electronic submission of responses.

III. Current Action

This notice requests comments on an extension of the information collections included in regulation section 2550.404c–1, which sets requirements for fiduciary relief pertaining to participant-directed individual account plans under section 404(c) of ERISA. The Department is not proposing or implementing changes to the existing ICR at this time. A summary of the ICR and the current burden estimates follows:

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Regulation Regarding Participant Directed Individual Account Plans (ERISA section 404(c) Plans).

OMB Number: 1210–0090.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 324,000.

Frequency of Response: On occasion.

Responses: 324,000.

Estimated Total Burden Hours: 37,000.

Total Burden Cost (Operating and Maintenance): $17,755,000.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the information collection request; they will also become a matter of public record.

Dated: November 8, 2005.

Susan G. Lahne,

Senior Pension Law Specialist, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 05–22584 Filed 11–14–05; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL03–SDOC]

RIN 1218–AC21

Nationally Recognized Testing Laboratories; Supplier's Declaration of Conformity

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for information.

SUMMARY: The Occupational Safety and Health Administration (OSHA) requests comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process.

DATES: You must submit information or comments by the following dates:

Hard copy: Your information or comments must be submitted (postmarked or sent) by February 13, 2006.

Electronic transmission or facsimile: Your comments must be sent by February 13, 2006.

ADDRESSES: You may submit information or comments to this Request for Information, identified by docket number NRTL03–SDOC, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

OSHA Web site: http://ecomments.osha.gov. Follow the instructions for submitting comments on OSHA's Web page.

Fax: If your written comments are 10 pages or fewer, you may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express delivery, hand delivery and courier service: Submit three copies to the OSHA Docket Office, Docket No. NRTL03-SDOC, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–2625, Washington, DC 20210; telephone (202) 693–2350. (OSHA's TTY number is (877) 889–5627). OSHA Docket Office hours of operation are 8:15 a.m. to 4:45 p.m., e.s.t.

Instructions: All comments received will be posted without change to *http://dockets.osha.gov*, including any personal information provided. OSHA cautions you about submitting personal information such as social security numbers and birth dates.

Docket: For access to the docket to read background documents or comments received, go to *http://dockets.osha.gov*. Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance in using the Web page to locate docket submissions.

FOR FURTHER INFORMATION CONTACT: *Press inquiries:* Kevin Ropp, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 693–1999. *General and Technical information:* MaryAnn Garrahan, Office of Technical Programs and Coordination Activities, NRTL Program, Room N–3653 at the address shown immediately above. Telephone: (202) 693–2110.

SUPPLEMENTARY INFORMATION: OSHA requests information and comments on a specific proposal submitted to OSHA to permit the use of a Supplier's Declaration of Conformity (SDoC) as part of, or as an alternative to, the Nationally Recognized Testing Laboratories (NRTLs) product approval process. To help the public better understand the issues presented in this Request for Information (RFI), OSHA is first providing information about its current requirements regarding NRTLs and product approval. This RFI then describes and asks specific questions about the SDoC proposal submitted to OSHA.

I. Background

A. What Are NRTLs?

NRTLs are qualified private organizations that meet the requirements in 29 CFR 1910.7 to perform independent (*i.e.*, third-party) safety testing and product certification, and thereby receive OSHA recognition. To be recognized by OSHA as an NRTL, an organization must: (1) Have the appropriate capability to test and evaluate products for workplace safety purposes; (2) be completely independent of the manufacturers, vendors, and users of the products for which OSHA requires certification; (3) have internal programs that ensure proper control of the testing and certification process; and (4) establish effective reporting and complaint handling procedures (29 CFR 1910.7(b)).

Many of OSHA's workplace standards require that certain types of equipment be approved (*i.e.*, tested and certified) by an NRTL. (In this RFI, OSHA refers to these provisions as ''NRTL approval requirements.'') Most of OSHA's standards that require NRTL approval of equipment (also called ''products'' herein) used in the workplace are found in the Agency's General Industry standards, 29 CFR Part 1910. For example, 29 CFR 1910.303(a) (read together with the definitions of ''approved'' and ''acceptable'' in 29 CFR 1910.399) generally requires electric equipment or products used in the workplace to be approved by NRTLs. The term most often used in the standards to require NRTL approval is the term ''approved.'' Other terms in the standards that require NRTL approval include ''certified,'' ''listed,'' and ''listed and labeled.'' A comprehensive listing of NRTL approval requirements and the categories of product that must be approved can be found on OSHA's Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

Similar provisions for third-party approval of products exist to varying degrees in other OSHA standards. For example, OSHA's Electrical standards for Construction (Subpart K of 29 CFR Part 1926) require that approval of electric equipment be provided by a ''qualified testing laboratory'' (QTL). OSHA's definitions for NRTLs and QTLs are essentially equivalent.

B. Why Did OSHA Develop the NRTL Program?

Prior to 1971, national consensus organizations and other code developers had provisions for independent testing and certification of products to meet the safety requirements of their voluntary standards. For example, the National Fire Protection Association (NFPA) has long required safety testing of electric equipment in various provisions of the National Electrical Code (NEC). The NEC is the dominant electrical safety code in use in the United States.

During OSHA's first 2 years, the Agency adopted many established Federal standards and national consensus standards as OSHA standards under section 6(a) of the Occupational Safety and Health Act (OSH Act), 29 U.S.C. 655(a). Many of these standards contained requirements for equipment to be ''approved,'' ''listed,'' or ''labeled'' by certain qualified organizations that could provide consistent determinations about the safety of equipment. By adopting these standards, OSHA continued the long history in the United States of equipment testing being performed by independent testing organizations. The Agency wanted to assure itself, through such testing, that products used in the workplace would be safe. However, the consensus standards adopted by OSHA through section 6(a) of the OSH Act primarily sanctioned product approvals of only two organizations: Underwriters Laboratories Inc. (UL) and Factory Mutual Research Corporations (FMRC).

In the early 1980s, a successful lawsuit was brought by another testing organization that required OSHA to conduct a rulemaking to establish a program under which it would recognize any qualified testing laboratories that could test and certify equipment to meet these approval requirements, not only UL and FMRC. In 1988, OSHA finalized 29 CFR 1910.7, which established the NRTL Program and set forth procedures for evaluating and recognizing testing laboratories as NRTLs. (53 FR 12102, April 12, 1988.) Approval by NRTLs provides OSHA assurance of the safety of certain types of products used in the workplace, and the NRTL Program assures that the approvals are done by qualified testing and certification organizations.

C. What Is the NRTL Recognition Process?

OSHA's NRTL recognition process involves a thorough analysis of an NRTL's policies and procedures to ensure that the NRTL meets all of the requirements of 29 CFR 1910.7. OSHA reviews detailed documentation submitted by an applicant for NRTL recognition, and performs a comprehensive on-site review of the applicant's testing and certification facilities. The staff also conduct annual on-site audits to ensure that the NRTLs adequately perform their testing and certification activities and maintain the quality of those operations. (See Chapters 2 through 6 of the NRTL Program Directive CPL 1–0.3.)

NRTLs may be based in the United States or in other countries. Currently, there are 18 NRTLs, of which 16 are established in the United States and 2 are foreign-based. The recognition process (described in 29 CFR 1910.7) is the same for all laboratories, regardless of where they are established or located.

The States and territories operating OSHA-approved State plans are expected to adopt standards that rely on Nationally Recognized Testing Laboratories accredited by Federal OSHA, *i.e.*, where workplace equipment and materials require safety certification or testing, the testing laboratory must have received Federal OSHA recognition as an NRTL for that equipment or material. A State plan may establish its own program for accrediting testing laboratories but only for in-State applicability, and the State must accept accreditation of NRTLs recognized by Federal OSHA for testing equipment and materials where State safety requirements are the same as the Federal.

D. How Are Products Designated as NRTL Approved?

NRTLs generally test and certify (*i.e.*, approve) a product for its manufacturer before it is sold or shipped. When it has approved a product, the NRTL issues a certification document and permits the manufacturer to place the NRTL's registered certification mark or symbol on all units of the product manufactured. This certification mark on a product indicates that a particular NRTL has tested and certified that specific product. If it is not feasible to apply the certification mark directly on an NRTL-approved product, the mark may appear on the smallest packaging of the product. The NRTL Web pages within the OSHA Web site show the certification marks generally used by each NRTL. (*http://www.osha.gov/dts/otpca/nrtl/index.html*).

As indicated above, the NRTL performs two key operations in its approval process. First, it must test the product; *i.e.*, it tests a representative unit or prototype of the product it will certify to ensure that it has appropriate safety features. NRTLs conduct such tests under their product safety-testing program. Second, it must certify the product, not only by issuing a certificate and authorizing use of its mark, but more broadly by operating a product-certification program, which, for purposes of OSHA requirements, consists of a listing and labeling and follow-up inspection programs. The certification program is fundamentally important to the approval process because through it the NRTL gains assurance that all manufactured units of the product have the same safety features as the unit initially tested and certified. For this purpose, the NRTL conducts regular inspections at the product manufacturer's factories or assembling facilities. These inspections involve NRTL review of specific operational areas, including testing that has been performed, quality and production controls, and control of the use of the NRTL's mark. The NRTL can also perform limited testing of samples of the product during the inspection or full retesting after the inspection.

E. Can Any NRTL Test and Certify Any Type of Product That OSHA Standards Require to Be ''Approved?''

An NRTL applicant provides OSHA with a list of ''appropriate test standards'' that the applicant wishes to use for purposes of testing products. To be considered ''appropriate,'' the test standard must be a recognized safety standard in the U.S., compatible with and maintained current with national codes and standards, and developed by a standards developing organization (SDO) under a consensus-based process. (See 29 CFR 1910.7(c).) Each test standard covers particular types of products. If the applicant is recognized, OSHA then limits the NRTL's ''scope of recognition'' to those test standards, and thus certain products, for which the NRTL demonstrates to OSHA that it has the requisite technical capability. International test standards used in European and other countries may be applied if they have been harmonized to U.S. requirements by a U.S. SDO.

NRTLs have been recognized in the aggregate for more than 600 individual product safety standards, which cover thousands of individual types of products and, in actual usage, cover literally billions of certified products. A list of these standards is available on the NRTL pages of OSHA's Web site, which also provides an informational Web page for each NRTL that details its scope of recognition.

The NRTL's scope of recognition also includes specific ''recognized sites,'' which are the facilities that can perform the full range of testing and certification activities, and ''programs,'' under which the NRTL can use other parties in performing activities necessary for product testing and certification. Depending on the activity in question, these other parties may include other NRTLs, other non-NRTL independent testing labs, and product manufacturers, as appropriate.

F. What Are the Benefits and Significance of Using These Programs?

Allowing NRTLs to use testing done by other parties often reduces the time and cost necessary for product approval. While using these other testing resources can minimize the work of the NRTL, the NRTL is still required to exercise adequate control to ensure that other parties are performing their testing activities appropriately. OSHA allowed the use of testing done by other parties through an interpretation of its requirements, which was published in the March 9, 1995, **Federal Register** notice (60 FR 12980). OSHA commonly refers to these programs as the ''March 9 programs.''

In permitting NRTLs to use these programs, OSHA allowed practices that were already being utilized by NRTLs, but defined the necessary minimum elements for their use. By doing this, OSHA improved the effectiveness and uniform application of these practices by all NRTLs and assured that all NRTLs would properly utilize the resources provided by other parties in testing and certifying products. Permitting these programs furthers OSHA's performance-based regulations for the NRTL Program, *i.e.*, providing general criteria that must be met, but allowing particular NRTLs latitude in determining how they will meet them.

One program allows NRTLs to use product testing data that have been developed by other testing organizations under an international scheme for the exchange of test data, the ''International Electrotechnical Commission—Certification Body (IEC–CB) Scheme.'' This scheme facilitates the export and import of products by allowing NRTLs to utilize test data developed by testing organizations in foreign countries and similarly allowing those organizations to use data developed by NRTLs.

Today, the NRTL Program continues to evolve in response to other practices

that NRTLs want to use or are using to address challenges they face or that are faced by manufacturers for which NRTLs certify products. Those manufacturers must often compete globally, and NRTLs have responded by expanding their overseas operations. As OSHA did in formalizing and accepting the March 9 programs, OSHA continues to investigate ways to be flexible to meet the business needs of the NRTLs. In fact, OSHA is considering the addition of a new program that would permit a qualified NRTL, which meets certain criteria, to perform approval activities at many more locations than OSHA currently allows. This program could potentially expedite any NRTL's approval activities, thus serving its needs and the needs of manufacturers of the products being approved. While the NRTL Program must evolve in the face of new challenges, we do so with the clear objectives of maintaining the effectiveness of our monitoring of the NRTLs and assuring that the safety of NRTL approved products is not compromised.

G. Is Approval by an NRTL Always Required for Equipment That Must Be ''Approved''?

In general, products that are required to be ''approved'' in OSHA's standards must be NRTL-approved.[1] However, there are exceptions. For example, under OSHA's electrical standards for general industry and construction, if electric equipment is of a kind that none of the NRTLs approve, then OSHA allows approval by a Federal agency or by a State or local code authority that enforces National Electrical Code workplace safety provisions. Similarly, NRTL approval is not required for ''custom-made equipment,'' which is equipment designed, made for, and used by a particular customer (*i.e.*, unique or one-of-a-kind items). In this case, the employer must demonstrate safety based on test data provided by the manufacturer. (See definition of ''acceptable'', 29 CFR 1910.399.)

As indicated above, NRTLs are ''third-party'' testing and certification organizations. Under the current NRTL program, a manufacturer of any equipment that must be NRTL-approved is not permitted to approve products, even if it has a testing laboratory that would otherwise qualify for NRTL status. The NRTL provisions in 29 CFR 1910.7 require that the testing laboratory be independent of any manufacturers of products being tested. The provision for independence is the cornerstone of the NRTL Program. OSHA relies upon this element of independence to assure that products have been properly tested and certified without the need for the Agency to engage in an extensive inspection and audit of manufacturers. Under the NRTL Program, the NRTLs perform this auditing function.

II. Proposal To Provide Alternative Approval Through ''Supplier's Declaration of Conformity''

OSHA has received a proposal (Exhibit 1) from the Information Technology Industry Council (ITIC) to allow an employer to accept a ''Supplier's Declaration of Conformity'' (SDoC) as an alternative means of approval for information technology (IT) equipment or products, *i.e.*, in lieu of NRTL approval of these products. An SDoC is a written statement—produced by an equipment manufacturer or supplier—that a product meets or conforms to a specified test standard or a set of requirements. OSHA has long been aware of the concept of manufacturer's self-approval and has known that it is allowed, for certain types of products, by a few other countries.

The proposal does not define the term ''IT equipment'' but instead gives three examples: computers, computer peripherals, and telecommunications equipment. (Exhibit 1, page 1.) However, the term could encompass many other types of equipment, especially if OSHA were to use, as a guide, all equipment covered under the relevant U.S. ''IT equipment'' test standard (identified below). For example, this test standard includes the following as examples of IT products: copying machines, facsimile machines, modems, personal computers, telephone sets, answering machines, and visual display units. Virtually all of these IT products are electric equipment under OSHA standards, and thus generally must be ''approved'' in order to be used in the workplace. (See definition of ''equipment,'' 29 CFR 1910.399.) Under the ITIC proposal, OSHA would allow an employer to use IT products that are ''self-approved'' by a manufacturer through SDoC rather than approved by one of the NRTLs. In its proposal, ITIC suggests that OSHA could classify the approval of a product through SDoC as a ''de minimis'' violation of the NRTL approval requirements. (Exhibit 1, page 3.)

A principal concern raised by ITIC on behalf of its members and other manufacturers, which it seeks to address through the SDoC, is the delay in bringing products to market (''time-to-market''), particularly in different countries, because of country-specific testing requirements and approval procedures. (Exhibit 1, page 2.) ITIC also alleges that IT equipment and IT manufacturers have a good workplace safety record, and that this record supports the use of SDoCs in lieu of NRTL testing.

ITIC further suggests that all IT equipment should be approved to meet the technical requirements of a test standard issued by the International Electrotechnical Commission (IEC): IEC 60950. (Exhibit 1A.) The IEC is a leading organization in the development of international test standards, and IEC 60950 represents IEC's test standard for IT equipment. ITIC advocates the use of this test standard by all countries. As discussed earlier, under OSHA's requirements, electric products must be tested by NRTLs to meet the requirements of appropriate U.S. test standards. In that regard, for IT products, OSHA notes that for OSHA and NRTL purposes, the IEC 60950 standard has already been harmonized to a corresponding U.S. test standard, UL 60950. Many NRTLs already use UL 60950 for approving IT equipment.

Finally, the proposal includes a study by Industry Canada, an agency of the Canadian government. (Exhibit 1B.) The study discusses ways that agencies in various countries use SDoCs for approvals of equipment. The study notes the importance, in an SDoC system, of having a responsible regulatory authority for audit and enforcement, focusing on their ability to identify ''bad actors'' after products are sold. (Exhibit 1B, page 2.) In contrast, under current OSHA regulations, NRTLs must perform key functions ''before'' sale. As noted earlier, an NRTL approving a product needs to ensure, generally before a manufacturer sells or ships a product, that (1) a representative unit of the product meets the provisions of applicable test standards (*i.e.*, the NRTL tests and approves the product), and (2) the manufacturer or supplier of that product is complying with the terms of the approval. An NRTL also performs some ''after sale'' functions (e.g., by occasionally testing products

[1] While OSHA uses the term ''NRTL approval'' to describe the type of testing or certification activities performed by NRTLs, the international community often uses a different term for such activities: conformity assessment. An international guide, ISO Guide 2, defines ''conformity assessment'' as ''any activity concerned with determining directly or indirectly that requirements are fulfilled.'' Similarly, organizations such as NRTLs that perform these conformity assessments are referred to in ISO Guide 2 as ''conformity assessment bodies'' (CABs). Under OSHA's NRTL Program, each NRTL must perform both testing and certification functions. However, in countries such as France and Germany, testing laboratories and certification organizations (CABs) must be separate entities.

taken off the store shelf, by responding to complaints from product users, and by ''recalling'' products that they find through such testing or complaints to pose safety concerns).

OSHA has reviewed information and documents pertaining to SDoC and met with ITIC and a few interested parties who provided some input on SDoC and their view of its advantages and disadvantages. Documents we have gathered to date, including the ITIC proposal, are available at the OSHA Docket Office. In general, these documents are available through the OSHA Web site at *http://dockets.osha.gov*.

After reviewing ITIC's proposal, OSHA has decided that it needs to learn more about SDoC and the assurances behind them. Accordingly, this request is designed to obtain that information.

III. Questions on Which Comment Is Requested

OSHA is seeking information, data, and comment on SDoC generally, and the ITIC proposal specifically. OSHA is providing broad questions below to provide a framework for the public to respond to this RFI. However, you can provide comment or information on any aspect of the broad areas mentioned below and not just limit your answers to the specific questions posed. In responding to these questions, please explain the reasons supporting your views, and identify and provide relevant information on which you rely, including data, studies, articles, and other materials. Respondents are encouraged to address any aspect of the issue on which they believe they can contribute. Please briefly identify your background or qualification on the topic on which you are responding, where relevant.

SDoC Process

Note: Questions 1 through 7 pertain to regulatory or product approval systems that currently allow SDoCs.

1. What quality controls and procedures do equipment manufacturers/suppliers now follow to effectively perform, document, and issue SDoCs for their products?

2. What kinds of problems do product manufacturers and product users now encounter with their SDoCs and how are they resolved or addressed?

3. What kinds of products are now approved or not approved using SDoCs, and why?

4. Is there any reduction in the ''time-to-market'' for products? If so, how much of a reduction is there, how much is due to improvements in product safety, and what is the savings in costs to the manufacturer if SDoC is used instead of a third-party approval?

5. Do third-party product certifiers currently use SDoCs in approving products or play a role in issuing SDoCs, and if so how?

6. What kinds of testing and testing capabilities are required for using SDoCs?

7. Have there been any incidents involving ''unapproved'' IT equipment, or IT equipment approved through SDoC, creating hazards?

SDoC Proposal

8. What has changed with respect to IT equipment in the 17 years since OSHA adopted the NRTL Program that could warrant a reconsideration of the third-party testing criterion?

9. Should OSHA consider allowing SDoC in the approval process for IT equipment, and if so, to what extent? If allowed, what restrictions, safeguards, or other requirements would be necessary to provide employers, employees, and OSHA with equivalent assurances of safety to that currently provided by NRTL testing and certification? Should OSHA require manufacturers performing SDoCs to meet all the requirements of an NRTL except independence? How, specifically, should OSHA evaluate the effects on worker safety of SDoCs versus NRTL approvals?

10. If OSHA were to adopt SDoC, should OSHA limit its use to computers, computer peripherals, and telecommunications equipment only, as suggested by ITIC, or to all IT equipment, as defined by the relevant U.S. test standard, or restrict its use to low voltage (for example, 50 volts or less) IT equipment or components? In the alternative, should OSHA allow its use for other types of equipment? If so, what criteria, requirements, or data should OSHA use to determine the types of products or components eligible for SDoCs? What types of equipment would not be suitable for SDoC?

11. What advantages or benefit would workers, employers, or OSHA derive if OSHA were to allow SDoC? What disadvantages or detriments would result? What other groups or parties would consider it beneficial or damaging, and how?

12. If allowed, should OSHA limit the use of SDoCs to particular kinds of manufacturers and, if so, what would be the selection criteria?

13. If OSHA were to adopt some form of SDoC, what kind of mechanisms would be necessary to ensure effective monitoring of manufacturers and products, and to handle complaints and product recalls?

14. Are there ways in which OSHA could incorporate the SDoC into its current process of NRTL approvals?

General Comments on SDoCs

OSHA solicits comment on any other related issues or topics that may assist in the evaluation of SDoCs and whether they can be used in a way that maintains or improves the NRTL approval process along with the safety of equipment.

Authority and Signature

This document was prepared under the direction of Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued pursuant to sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order 5–2002 (67 FR 65008), and 29 CFR part 1911.

Signed at Washington, DC this 26th day of October, 2005.

Jonathan L. Snare,

Acting Assistant Secretary.

[FR Doc. 05–22630 Filed 11–14–05; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting of the Board of Directors

TIME AND DATE: The Board of Directors of the Legal Services Corporation will meet on November 28, 2005 via conference call. The meeting will begin at 12 p.m. (e.s.t.), and continue until conclusion of the Board's agenda.

LOCATION: 3333 K Street, NW., Washington, DC 20007, 3rd Floor Conference Room.

STATUS OF MEETING: OPEN. Directors will participate by telephone conference in such a manner as to enable interested members of the public to hear and identify all persons participating in the meeting. Members of the public may observe the meeting by joining participating staff at the location indicated above.

MATTERS TO BE CONSIDERED:

1. Approval of the agenda.
2. Consider and act on Board of Directors' response to the Inspector General's Semiannual Report to Congress for the period of October 1, 2004 through March 31, 2005.
3. Consider and act on other business.
4. Public comment.

CONTACT PERSON FOR INFORMATION: Patricia Batie, Manager of Board Operations, at (202) 295–1500.

SPECIAL NEEDS: Upon request, meeting notices will be made available in alternate formats to accommodate visual and hearing impairments. Individuals who have a disability and need an accommodation to attend the meeting may notify Patricia Batie at (202) 295–1500.

Dated: November 9, 2005.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel & Corporate Secretary.

[FR Doc. 05–22659 Filed 11–9–05; 4:29 pm]

BILLING CODE 7050–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on the Electronic Records Archives; Notice of Meeting

AGENCY: National Archives and Records Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), the National Archives and Records Administration (NARA) announces a meeting of the Advisory Committee on the Electronic Records Archives (ACERA). The committee serves as a deliberative body to advise the Archivist of the United States on technical, mission, and service issues related to the Electronic Records Archives (ERA). This includes, but is not limited to, advising and making recommendations to the Archivist on issues related to the development, implementation, and use of the ERA system.

Date of Meeting: November 30, 2005.

Time of Meeting: 9 a.m.–4 p.m.

Place of Meeting: 700 Pennsylvania Avenue, NW. Washington, DC 20408–0001.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Electronic Records Archives Program at *era.program@nara.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

- Committee organization and rules.
- Review of NARA's mission and activities in the electronic records arena.
- Development of a plan of action for the committee.

FOR FURTHER INFORMATION CONTACT: Lewis Bellardo, Deputy Archivist of the United States/Chief of Staff; (301) 837–1600.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 05–22579 Filed 11–14–05; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Materials Research (DMR) #1203.

Dates and Times: December 8, 2005; 7:45 a.m.–8 p.m. (open: 8:15–11:45, 12:45–3:30, 5–6; closed: 3:30–5, 6–8).

December 9, 2005; 8 a.m.–3 p.m. (open 9–9:45).

Place: Columbia University, New York, NY.

Type of Meeting: Part open.

Contact Person: Dr. Maija M. Kukla, Program Director, Materials Research Science and Engineering Centers, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4940.

Purpose of Meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Center.

Agenda: December 8, 2005—Closed to brief site visit panel.

December 9, 2005—Open for Directors overview of Materials Research Science and Engineering Center and presentations. Closed to review and evaluate progress of Materials Research Science and Engineering Center.

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: November 8, 2005.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 05–22635 Filed 11–14–05; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–445 and 50–446]

TXU Generation Company, LP; Biweekly Notice; Notice of Issuance of Amendments to Facility Operating Licenses; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on October 25, 2005 (70 FR 61667), that incorrectly issued Amendment No. 120 for Units 1 and 2. The correct amendment No. is 122. This action is necessary to correct the incorrect amendment numbers.

FOR FURTHER INFORMATION CONTACT: Mohan C. Thadani, PM, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulation Commission, Washington, DC 20555–0001; telephone (301) 415–1476, e-mail: *mct@nrc.gov.*

SUPPLEMENTARY INFORMATION: On page 61667, in the first column, in the first complete notice, sixteenth line, it is corrected to read from ''Amendment Nos. 120 and 120'' to ''Amendment Nos. 122 and 122''.

Dated in Rockville, Maryland, this 4th day of November 2005.

For the Nuclear Regulatory Commission.

Mohan C. Thadani,

Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6273 Filed 11–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

License No. Dpr-28; Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, Nuclear Regulatory Commission (NRC or Commission) has issued a Director's Decision with regard to a Petition dated December 7, 2004, filed pursuant to Title 10 of the Code of Federal Regulations (10 CFR) section 2.206 by Mr. Raymond Shadis, hereinafter referred to as the ''Petitioner.'' The Petition concerns the operation of the Vermont Yankee

Nuclear Power Station (Vermont Yankee).

The Petition requested that the NRC take immediate action to address the degraded alert and notification system at Vermont Yankee. The Petition also requested that the NRC order Vermont Yankee to go into cold shutdown until Entergy Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (the licensee) has provided a workable emergency warning system and until the NRC has verified the operability of that system.

As the basis for his request, the Petitioner stated that the emergency warning system could not assure that the public would be notified in a timely manner should an emergency occur. The Petitioner stated that equipment and human failures over time were cumulatively sufficient to show that Vermont Yankee was operating without a functional emergency response plan.

By teleconference on January 6, 2005, the Petitioner, along with two representatives of the organization Nuclear Free Vermont, discussed the petition with the NRC's Petition Review Board. This teleconference gave the Petitioner and the licensee an opportunity to provide additional information and to clarify issues raised in the Petition.

The NRC staff sent a copy of the proposed Director's Decision to the Petitioner and to the licensee for comment by letters dated May 24, 2005. The Petitioner submitted comments by letter dated June 24, 2005, and these comments are addressed in the final Director's Decision.

The Director of the Office of Nuclear Reactor Regulation has determined that the Petitioner's request is denied. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD–05–03), the complete text of which is available for inspection at the Commission's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html.*

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 7th day of November 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6272 Filed 11–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Nuclear Security Coalition; Boiling-Water Reactors of Mark I and II Design; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision with regard to a Petition dated August 10, 2004, filed by the Nuclear Security Coalition (the Petitioner, comprised of 45 independent organizations), pursuant to section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR). The Petition was supplemented by Paul Gunter of the Nuclear Information and Resource Service, an organization which is a member of the Nuclear Security Coalition, on November 29, 2004; December 6, 2004; March 15, 2005; March 28, 2005; April 12, 2005; and April 19, 2005. The Petitioner requested that the NRC take the following actions: (1) Issue a demand for information to the licensees for all Mark I and II boiling-water reactors (BWRs) and conduct a 6-month study of options for addressing structural vulnerabilities; (2) present the findings of the study at a national conference attended by all interested stakeholders, providing for transcribed comments and questions; (3) develop a comprehensive plan that accounts for stakeholder concerns and addresses structural vulnerabilities of all Mark I and II BWRs within a 12-month period; (4) issue orders to the licensees for all Mark I and II BWRs compelling incorporation of a comprehensive set of protective measures, including structural protections; and (5) make future operation of each Mark I and II BWR contingent on addressing their structural vulnerability with participation and oversight by a panel of local stakeholders.

In a letter dated October 19, 2004, the NRC informed the Petitioner that the issues in the Petition were accepted for review under 10 CFR 2.206 and had been referred to the Office of Nuclear Reactor Regulation for appropriate action. A copy of the acknowledgment letter is publicly available in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML042860465. A copy of the Petition is publicly available in ADAMS under Accession No. ML042370023.

The Petitioners' representatives met with NRC staff on September 23, 2004, to provide additional details in support of this request. This meeting was transcribed and the meeting summary with the transcript attached is publicly available in ADAMS under Accession No. ML042870571.

The NRC sent a copy of the proposed Director's Decision to the Petitioner for comment on June 29, 2005 (Accession No. ML051250010). The Petitioner and two of its member organizations commented on the proposed Director's Decision by letters dated July 29, 2005 (Accession Nos. ML052340473; ML052350440; ML052310022).

The Director of the Office of Nuclear Reactor Regulation has determined that (1) The proposed demand for all licensees of Mark I and II BWRs to conduct a 6-month study of options for addressing structural vulnerabilities has, in effect, been granted; (2) the proposed national conference to present the findings of the study has been denied; (3) the proposed development of a comprehensive plan to account for stakeholder concerns and address structural vulnerabilities of all Mark I and II BWRs is considered to have been granted; (4) the proposed issuance of orders to the licensees for all Mark I and II BWRs compelling incorporation of a comprehensive set of protective measures is denied; and (5) the proposed requirement that future operation of each Mark I and II BWR be contingent on addressing their structural vulnerability, with participation and oversight by a panel of local stakeholders, is denied. The reasons for these decisions are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD–05–04), the complete text of which is available in ADAMS, and is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O–1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records are accessible from the ADAMS Public Electronic Reading Room on the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR reference staff at

1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 7th day of November 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E5–6269 Filed 11–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8838–MLA; ASLBP No. 00–776–04–MLA]

Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

U.S. Army

(Jefferson Proving Ground Site)

This Licensing Board is being established pursuant to a Commission memorandum and order, CLI–05–23, 62 NRC—(Oct. 26, 2005), that (1) Affirmed a Presiding Officer's decision to reinstate this proceeding, *see* LBP–05–25, 62 NRC—(Sept. 12, 2005); and (2) directed that a three-member Licensing Board be appointed to conduct this reinstated proceeding, which is to be adjudicated using the revised procedural rules that became effective in February 2004, *see* 69 FR 2182 (Jan. 24, 2004).

The Board is comprised of the following administrative judges:

Alan S. Rosenthal, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Paul B. Abramson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.302.

Issued at Rockville, Maryland, this 1st day of November 2005.

G. Paul Bollwerk, III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 05–22099 Filed 11–14–05; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Interim Staff Guidance Documents for Spent Fuel Storage and Transportation Casks

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Robert Einziger, Materials Engineer, Structural and Materials Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. telephone: (301) 415–2597; fax number: (301) 415–8555; e-mail: *ree1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) prepares draft Interim Staff Guidance (ISG) documents for spent fuel storage or transportation casks or radioactive materials transportation package designs. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing. The NRC is soliciting public comments on Draft ISG–22, ''Potential Rod Splitting Due to Exposure to an Oxidizing Atmosphere During Short-Term Cask Loading Operations in LWR or Other Uranium Oxide Based Fuel,'' which will be considered in the final version or subsequent revisions.

II. Summary

The purpose of this notice is to provide the public an opportunity to review and comment on the Draft Interim Staff Guidance-22 concerning exposure of spent fuel to an oxidizing atmosphere during the air blowdown operation. Draft Interim Staff Guidance-22, Revision 0, provides guidance to NRC staff on what documents should be reviewed and evaluated to ensure that sufficient controls are in place to prevent any part of the fuel rods from being exposed to an oxidizing atmosphere.

III. Further Information

Documents related to this action are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/doc-collections/isg/spent-fuel.html*. From this site, you can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to this notice are provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

Interim staff guidance	ADAMS accession number
Interim Staff Guidance-22	ML052560673

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Comments and questions on the draft SFPO ISG–21 should be directed to the NRC contact listed below by December 30, 2005. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Christopher Brown, Materials Engineer, Structural and Materials Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Comments can also be submitted by telephone, fax, or e-mail, which are as follows: telephone: (301) 415–2597; fax number: (301) 415–8555; e-mail: *ree1@nrc.gov.*

Dated at Rockville, Maryland, this 31st day of October, 2005.

For the Nuclear Regulatory Commission.

Gordon Bjorkman,

Chief, Structural and Materials Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E5–6268 Filed 11–14–05; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Required Interest Rate Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or can be derived from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's Web site (*http://www.pbgc.gov*).

DATES: The required interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in November 2005. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in December 2005.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Attorney, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate (the ''required interest rate'') in determining a single-employer plan's variable-rate premium. Pursuant to the Pension Funding Equity Act of 2004, for premium payment years beginning in 2004 or 2005, the required interest rate is the ''applicable percentage'' (currently 85 percent) of the annual rate of interest determined by the Secretary of the Treasury on amounts invested conservatively in long-term investment grade corporate bonds for the month preceding the beginning of the plan year for which premiums are being paid. Thus, the required interest rate to be used in determining variable-rate premiums for premium payment years beginning in November 2005 is 4.83 percent (*i.e.*, 85 percent of the 5.68 percent composite corporate bond rate for October 2005 as determined by the Treasury).

The following table lists the required interest rates to be used in determining variable-rate premiums for premium payment years beginning between December 2004 and November 2005.

For premium payment years beginning in:	The required interest rate is:
December 2004	4.75
January 2005	4.73
February 2005	4.66
March 2005	4.56
April 2005	4.78
May 2005	4.72
June 2005	4.60
July 2005	4.47
August 2005	4.56
September 2005	4.61
October 2005	4.62
November 2005	4.83

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in December 2005 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 9th day of November 2005.

James J. Armbruster,

Acting Director, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation.

[FR Doc. 05–22603 Filed 11–14–05; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–15781]

Issuer Delisting; Notice of Application of Berkshire Hills Bancorp, Inc. To Withdraw Its Common Stock, $.01 Par Value, From Listing and Registration on the American Stock Exchange LLC

November 8, 2005.

On October 20, 2005, Berkshire Hills Bancorp, Inc., a Delaware corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.01 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On July 27, 2005, the Board of Directors (''Board'') of the Issuer approved a resolution to withdraw the Security from listing and registration on Amex and to list the Security on the Nasdaq National Market (''Nasdaq''). The Issuer stated that the Board believes it is in the best interests of the Issuer and its shareholders to move the Security from listing on Amex to Nasdaq because Nasdaq will provide the Issuer with the opportunity to increase its exposure among investors and improve the liquidity of the Security.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Delaware, in which it is incorporated, and by providing written notice of withdrawal to Amex.

The Issuer's application relates solely to withdrawal of the Security from listing on the Amex and from registration under section 12(b) of the Act,[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before December 5, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–15781; or

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–15781. This file number should be included on the subject line

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6267 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–11823]

Issuer Delisting; Notice of Application of PAB Bankshares, Inc. To Withdraw Its Common Stock, No Par Value, From Listing and Registration on the American Stock Exchange LLC

November 8, 2005.

On October 26, 2005, PAB Bankshares, Inc., a Georgia corporation (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, no par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

On October 25, 2005, the Board of Directors (''Board'') of the Issuer unanimously approved resolutions to withdraw the Security from listing and registration on Amex and to list the Security on the Nasdaq National Market (''Nasdaq''). The Issuer stated that the Board believes listing the Security on Nasdaq will provide better visibility for the Security, improve liquidity in the Security, and provide better execution quality for investors. The Board also noted that more of its peer financial institutions are listed on Nasdaq than on Amex.

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the state of Georgia, in which it is incorporated, and provided written notice of withdrawal to Amex.

The Issuer's application relates solely to withdrawal of the Security from listing on the Amex and from registration under section 12(b) of the Act,[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before December 5, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of Amex, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include the File Number 1–11823; or

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number 1–11823. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6266 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–08366]

Issuer Delisting; Notice of Application of Polydex Pharmaceuticals Limited To Withdraw Its Common Stock, $.0167 Par Value, From Listing and Registration on the Boston Stock Exchange, Inc.

November 8, 2005.

October 26, 2005, Polydex Pharmaceuticals Limited, a company organized under the laws of the Commonwealth of the Bahamas (''Issuer''), filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its common stock, $.0167 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

On July 20, 2005, the Board of Directors (''Board'') of the Issuer approved resolutions to withdraw the Security from listing and registration on BSE. The Issuer stated that the following reasons factored into the Board's decision to delist the Security from BSE. First, the Security is traded on the Nasdaq SmallCap Market (''Nasdaq'') in addition to being listed on BSE. The Board believes that consolidation of trading of the Security on one market would be in the best interest of, and eliminate confusion among, the Issuer's shareholders. The Board believes that the continued listing of the Security on BSE does not offer any significant benefits to the Issuer's shareholders, and that such continued listing is not worth the additional cost to the Issuer with respect to fees, expenses and employee time in connection therewith. Second, the Issuer received a letter from BSE on March 23, 2005, and in response, decided to withdraw the Security from listing and registration on BSE.

The Issuer stated in its application that it has complied with applicable rules of BSE by complying with all applicable laws in the Commonwealth of the Bahamas, the jurisdiction in

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

which the Issuer is incorporated, and by filing the required documents governing the withdrawal of securities from listing and registration on BSE.

The Issuer's application relates solely to withdrawal of the Security from listing on BSE and from registration under section 12(b) of the Act,[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before December 5, 2005, comment on the facts bearing upon whether the application has been made in accordance with the rules of BSE, and what terms, if any, should be imposed by the Commission for the protection of investors. All comment letters may be submitted by either of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/delist.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include the File Number 1–08366; or

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–9303. All submissions should refer to File Number 1–08366. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/delist.shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6265 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 14, 2005:

An Open Meeting will be held on Monday, November 14, 2005 at 11 a.m. in Room 10800, and Closed Meetings will be held on Tuesday, November 15, 2005 at 3 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed sessions and that no earlier notice thereof was possible.

The subject matter of the Open Meeting scheduled for Monday, November 14, 2005 will be:

The Commission will hear oral argument on an appeal by the Division of Enforcement from the decision of an administrative law judge. The law judge dismissed the Division's charges against William Kissinger, who was formerly a registered representative and office of supervisory jurisdiction principal of registered broker-dealer IFG Network Securities, Inc. (''IFG''), and who was associated with Kissinger Advisory, formerly a registered investment adviser. The Division alleged that Kissinger violated section 17(a) of the Securities Act of 1933, section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder, and that he aided and abetted Kissinger Advisory's violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940. The Division maintains that Kissinger failed to disclose material information in connection with his sale of Class B shares of certain mutual funds to six customers in 1999 and 2000. The law judge also dismissed the Division's charges that IFG and David Ledbetter, IFG's president from 1989 to 2000, had failed reasonably to supervise Kissinger with a view to preventing his violations of the antifraud provisions, as required by Sections 15(b)(4)(E) and 15(b)(6) of the Exchange Act.

Among the issues likely to be argued are whether Kissinger violated the antifraud provisions of the federal securities laws, whether IFG and Ledbetter failed reasonably to supervise Kissinger and, if violations are found, whether it is in the public interest to impose sanctions.

The subject matter of the Closed Meeting scheduled for Tuesday, November 15, 2005 will be:

Report of an investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 551–5400.

Dated: November 9, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–22658 Filed 11–9–05; 4:29 pm]

BILLING CODE 8010–01–P

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting Federal Register Citation of Previous Announcement: [To be published]

STATUS: Closed meeting.

PLACE: 100 F Street, NE., Washington, DC.

ANNOUNCEMENT OF ADDITIONAL MEETING: Additional meeting.

An additional closed meeting has been scheduled for Thursday, November 17, 2005 at 2:15 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10) permit consideration of the scheduled matter at the closed meeting.

Commissioner Campos, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Thursday, November 17, 2005 will be:

Formal orders of investigations;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Consideration of submission of a confidential request for information.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: November 10, 2005.

Jonathan G. Katz,

Secretary.

[FR Doc. 05–22720 Filed 11–10–05; 12:52 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–28058]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

November 7, 2005.

Notice is hereby given that the following filing(s) has/have been made with the Commission under provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 2, 2005, to the Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 2, 2005, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation, et. al. (70–10335)

Entergy Corporation (''Entergy''), 639 Loyola Avenue, New Orleans, LA 70113, a registered holding company under the Act, and Entergy's direct public utility subsidiary Entergy New Orleans, Inc. (''New Orleans''), 1600 Perdido Building, New Orleans, LA, 70112, have filed a declaration/application (''Declaration'') under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rule 45 under the Act.

I. Background

New Orleans serves approximately 190,000 electric and 147,000 gas customers in Orleans parish, including the City of New Orleans, Louisiana (''City''). On September 23, 2005, New Orleans filed a petition (''Voluntary Petition'') for relief under Chapter 11 of the United States Bankruptcy Code (''Bankruptcy Code'') in the United States Bankruptcy Court for the Eastern District of Louisiana (''Bankruptcy Court''). The Voluntary Petition was precipitated by the unanticipated and devastating impact of Hurricane Katrina, which destroyed substantial portions of New Orleans' facilities, disrupted its revenues, and, with the evacuation of the City, eliminated at least in the short term, the quality of New Orleans' rate base, which is directly linked to the fortunes of the City. New Orleans is continuing in possession of its properties and has continued to operate its business as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

By order dated September 26, 2005 (Holding Company Act Release No. 28036) (''Original Order'') Entergy and New Orleans were authorized, among other things,[1] to enter into a $200 million credit agreement (''Credit Facility'') pursuant to which New Orleans could borrow up to $150 million from Entergy in order to enable New Orleans to pay its vendors and suppliers, including a payment on September 26, 2005, of approximately $36 million to fuel suppliers, to make payroll, to make capital expenditures, and to satisfy other working capital and operational needs.

All borrowings by New Orleans under the Credit Facility are secured by a first lien on all unencumbered property of New Orleans and a junior lien on property subject to existing liens, including liens under a mortgage and deed of trust dated as of May 1, 1987 with the Bank of New York as successor trustee and Stephen J. Giurlando as successor co-trustee, and a loan agreement effective as of July 6, 2004 and a security agreement effective July 2005 between Hibernia National Bank and New Orleans.

Borrowings under the Credit Facility must be repaid by New Orleans not later than August 23, 2006 and bear interest at a rate, calculated daily, equal to Entergy's effective cost of funds rate (currently approximately 4.6%), as determined under a credit agreement between Entergy and Citibank, N.A., as administrative agent.

II. Requested Authorization

New Orleans' has borrowed $60 million under the Credit Facility. However, Applicants state that they anticipate that New Orleans will require funding under the Credit Facility in an aggregate amount in excess of the $150 million authorized under the Original Order.

The Applicants request that the Commission increase New Orleans' authority to borrow from Entergy (70–10335) under the Credit Facility by $50 million, so as to allow it to borrow up to $200 million aggregate principal amount[2] from time to time through February 8, 2006.[3]

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6264 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

[1] Under the Original Order, the Commission also modified the terms of two outstanding Commission orders eliminating the requirement that New Orleans maintain common equity of at least 30% of its total capitalization and maintain investment grade credit ratings on securities of New Orleans that are rated. See Holding Company Act Release No. 27864 (June 30, 2004) and Holding Company Act Release No. 27918 (November 30, 2004).

[2] On September 26, 2005, the Bankruptcy Court entered an interim order authorizing New Orleans to borrow up to $100 million under the Credit Facility, until entry of the final order in the proceeding, and to execute, deliver and perform the Credit Facility. On October 26, 2005, the Bankruptcy Court authorized New Orleans to increase its borrowing limit to up to $200 million under the Credit Facility.

[3] The Energy Policy Act of 2005 repealed the Public Utility Holding Company Act of 1935, effective February 8, 2006.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52747; File No. SR–Amex–2005–084]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Trading Pursuant to Unlisted Trading Privileges of the iShares MSCI EAFE Value Index Fund and the iShares MSCI EAFE Growth Index Fund

November 8, 2005.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 19, 2005 the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On September 27, 2005, Amex filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade shares (the ''Fund Shares'' or ''Shares'') of the iShares® MSCI EAFE Value Index Fund (ticker symbol: EFV) and iShares MSCI EAFE Growth Index Fund (ticker symbol: EFG) (each a ''Fund'' or collectively, the ''Funds''),[4] pursuant to unlisted trading privileges (''UTP'').

The text of the proposed rule change is available on the Exchange's Web site (*http://www.amex.com,*) at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below, and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to trade Fund Shares which are Index Fund Shares under Amex Rules 1000A *et seq.,* pursuant to UTP. The Commission previously approved the original listing and trading of the Funds on the New York Stock Exchange, Inc. (''NYSE'').[5] Each Fund is a separate series of the iShares Trust (the ''Trust''). Morgan Stanley Capital International (''MSCI'') calculates and maintains the MSCI EAFE Growth Index and MSCI EAFE Value Index (collectively, the ''Indexes''). MSCI is a partially owned subsidiary of Morgan Stanley. Additional information about the Funds is also available at*http://www.iShares.com.*

The investment objective of the iShares MSCI EAFE Value Index Fund is to provide investment results that correspond generally to the price and yield performance of the MSCI EAFE Value Index, and the investment objective of the iShares MSCI EAFE Growth Index Fund is to provide investment results that correspond generally to the price and yield performance of the MSCI EAFE Growth Index. The Indexes are subsets of the MSCI EAFE Index and constituents of the Indexes include securities from Europe, Australasia (Australia and Asia), and the Far East. Each Index generally represents approximately 50% of the free float-adjusted market capitalization of the MSCI EAFE Index and consists of those securities classified by MSCI as most representing the growth or value style, respectively.

(a) Dissemination of Information About the Fund Shares

Quotations for and last sale information regarding the Funds are disseminated through the Consolidated Tape Association (''CTA''). The net asset value (''NAV'') of each Fund is calculated each business day, normally at the close of regular trading of the NYSE, and is published in a number of places, including *http://www.iShares.com* and through the facilities of the CTA. According to the Funds' prospectus, Investors Bank & Trust Company, the administrator, custodian and transfer agent for each Fund, determines the NAV for the Funds as of the close of regular trading on the NYSE (ordinarily 4 p.m., eastern time) on each day that the NYSE is open for trading.[6] The Funds and the index calculation methodology for the Indexes are both described in more detail in the NYSE Order.

In order to provide updated information relating to the Funds for use by investors, professionals, and persons wishing to create or redeem shares in the Funds, the NYSE disseminates, through the facilities of the CTA, the indicative optimized portfolio value (''IOPV''), calculated by Bloomberg L.P., every fifteen (15) seconds during the regular trading hours of 9:30 a.m. to 4:15 p.m. e.t.

(b) Trading Rules

The Exchange deems the Fund Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The trading hours for the Funds on the Exchange will be 9:30 a.m. to 4:15 p.m. eastern time (''ET''). Shares trade with a minimum price variation of $0.01.

Amex Rule 190 generally precludes certain business relationships between an issuer and the specialist in the issuer's securities. Exceptions in the rule permit specialists in Fund Shares to enter into Creation Unit transactions to facilitate the maintenance of a fair and orderly market. Commentary .04 to Amex Rule 190 specifically applies to Index Fund Shares listed on the Exchange, including the Shares. Commentary .04 states that nothing in Amex Rule 190(a) should be construed to restrict a specialist registered in a security issued by an investment company from purchasing and redeeming the listed security, or securities that can be subdivided or converted into the listed security, from the issuer as appropriate to facilitate the maintenance of a fair and orderly market.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange clarified and supplemented certain aspects of its proposal. Amendment No. 1 supplements the information provided in various sections, as indicated, of the Exchange's Form 19b–4.

[4] MSCI and MSCI Indices are registered service marks of Morgan Stanley & Co. Incorporated.

[5] *See* Securities Exchange Act Release No. 52178 (July 29, 2005), 70 FR 46244 (August 9, 2005) (SR–NYSE–2005–41) (''NYSE Order''). The Funds commenced trading on the NYSE on August 5, 2005.

[6] The Web site for the Trust, *http://www.iShares.com.* makes avaialble a variety of other relevant information about the Shares.

of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated Index Fund Shares, including the Funds Shares, as eligible for this treatment.[7]

The rules of the Exchange require its members to deliver a prospectus or product description to investors purchasing Shares of the Fund prior to or concurrently with the confirmation of a transaction in such Shares. The Exchange notes, however, that although Amex Rule 1000A provides for delivery of written descriptions to customers of Funds that have received an exemption from section 24(d) of the Investment Company Act of 1940 and the Trust has received such an exemption, there is at this time no written description available for these Funds. The Exchange will advise its members and member organizations that delivery of a prospectus in lieu of a written description would satisfy the requirements of Amex Rule 1000A.

The Exchange will cease trading in the Shares if (a) the primary market stops trading the Shares because of a regulatory halt akin to a halt based on Amex Rule 117 and/or a halt because dissemination of the IOPV and/or underlying index value has ceased or (b) the primary market delists the Shares.[8]

(c) Surveillance

The Exchange notes that the Underlying Indexes are broad-based and have components with significant market capitalizations and liquidity.[9] Nevertheless, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares. Specifically, the Amex will rely on its existing surveillance procedures governing Index Fund Shares.

(d) Information Circular

In connection with the trading of the Shares of each Fund, the Amex will inform its members in an Information Circular of the special characteristics and risks associated with trading of the Shares, such as, a description of each Fund and associated Shares, how Fund Shares are created and redeemed in Creation Units (*e.g.*, that Fund Shares are not individually redeemable), foreign currency risks, foreign securities characteristics, applicable foreign country laws and restrictions, applicable Exchange rules, dissemination information, trading information, the applicability of suitability rules, and a discussion of any relief provided by the Commission or the staff from any rules under the Act. Additionally, in the Information Circular, the Exchange will advise its members to deliver to investors purchasing Shares of the Fund a prospectus, as described above, prior to or concurrently with the confirmation of a transaction in such Shares. The Information Circular will also discuss the information that will be publicly available about the Shares.

The Information Circular will also remind members of their suitability obligations, including Amex Rule 411, which impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Shares.

2. Statutory Basis

The proposed rule change, as amended, is consistent with section 6(b) of the Act[10] in general and furthers the objectives of section 6(b)(5)[11] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, and, in general to protect investors and the public interest. In addition, the Exchange believes that the proposal is consistent with Rule 12f–5 under the Act[12] because it deems the Fund Shares to be equity securities, thus rendering the Shares subject to the Exchange's existing rules governing the trading of equity securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchanges believes that the proposed rule change, as amended, will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2005–084 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File Number SR–Amex–2005–084. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2005–084 and should be submitted on or before December 6, 2005.

[7] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) (SR–Amex–90–31) at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

[8] Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Marija Willen, Associate General Counsel, Amex, on November 7, 2005.

[9] Telephone conversation between Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, and Marija Willen, Associate General Counsel, Amex, on November 7, 2005.

[10] 15 U.S.C. 78s(b).

[11] 15 U.S.C. 78s(b)(5).

[12] 17 CFR 240.12f–5.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13]

In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,[14] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general to protect investors and the public interest.

In addition, the Commission finds that the proposal is consistent with section 12(f) of the Act,[15] which permits an exchange to trade, pursuant to UTP, a security that is listed and registered on another exchange.[16] The Commission notes that it previously approved the listing and trading of the Shares on the NYSE.[17] The Commission also finds that the proposal is consistent with Rule 12f–5 under the Act,[18] which provides that an exchange shall not extend UTP to a security unless the exchange has in effect a rule or rules providing for transactions in the class or type of security to which the exchange extends UTP. Amex rules deem the Shares to be equity securities, thus trading in the Shares will be subject to the Exchange's existing rules governing the trading of equity securities.[19]

The Commission further believes that the proposal is consistent with section 11A(a)(1)(C)(iii) of the Act,[20] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotations for and last sale information regarding the Shares are disseminated through the Consolidated Quotation System. Furthermore, the NYSE disseminates through the facilities of CTA an updated IOPV for the Shares at least every 15 seconds from 9:30 a.m. to 4:15 p.m. e.t.

The Exchange will cease trading in the Shares if (a) the primary market stops trading the Shares because of a regulatory halt similar to a halt based on Amex Rule 117 and/or a halt because dissemination of the IOPV and/or underlying index value has ceased or (b) the primary market delists the Shares.

In support of this proposed rule change, the Exchange has made the following representations:

1. Amex has appropriate rules to facilitate transactions in this type of security.

2. Amex surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange.

3. Amex will distribute an Information Circular to its members prior to the commencement of trading of the Shares on the Exchange that explains the terms, characteristics, and risks of trading such shares.

4. Amex will require a member with a customer that purchases the Shares on the Exchange to provide that customer with a product prospectus and will note this prospectus delivery requirement in the Information Circular.

5. Amex will cease trading in the Shares if (a) the primary market stops trading the Shares because of a regulatory halt similar to a halt based on Amex Rule 117 and/or a halt because dissemination of the IOPV and/or underlying index value has ceased or (b) the primary market delists the Shares.

This approval order is conditioned on Amex's adherence to these representations.

The Commission finds good cause for approving this proposed rule change, as amended, before the thirtieth day after the publication of notice thereof in the **Federal Register**. As noted previously, the Commission previously found that the listing and trading of these Shares on the NYSE is consistent with the Act.[21] The Commission presently is not aware of any issue that would cause it to revisit that earlier finding or preclude the trading of these funds on the Exchange pursuant to UTP. Therefore, accelerating approval of this proposed rule change should benefit investors by creating, without undue delay, additional competition in the market for these Shares.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–Amex–2005–084), is hereby approved on an accelerated basis.[22]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6262 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–52741; File No. SR–Amex–2005–115]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Options Quote Size Mitigation

November 4, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 4, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt an options market data size mitigation policy (''Options Size Mitigation'') on a four (4) month pilot basis. The text of the proposed rule change is available on the Amex's Web site at *http://*

---

[13] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78*l*(f).

[16] Section 12(a) of the Act, 15 U.S.C. 78*l*(a), generally prohibits a broker-dealer from trading a security on a national securities exchange unless the security is registered on that exchange pursuant to section 12 of the Act. Section 12(f) of the Act excludes from this restriction trading in any security to which an exchange ''extends UTP.'' When an exchange extends UTP to a security, it allows its members to trade the security as if it were listed and registered on the exchange even though it is not so listed and registered.

[17] *See* NYSE Order, *supra* note 5.

[18] 17 CFR 240.12f–5.

[19] The Commission notes that Commentary .04 to existing Amex Rule 190 will permit a specialist in the Shares to create or redeem creation units of these funds to facilitate the maintenance of a fair and orderly market. The Commission previously has found Commentary .04 to Amex Rule 190 to be consistent with the Act. *See* Securities Exchange Act Release No. 36947 (March 8, 1996), 61 FR 10606, 10612 (March 14, 1996) (SR–Amex–95–43).

[20] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[21] 21 *See* NYSE Order, *supra* note 5.

[22] 22 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

www.amex.com, the Office of the Secretary, the Amex, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposal is to adopt an Options Size Mitigation policy for the benefit of the Exchange and the marketplace, by helping to enhance the Exchange's ability to process an increasing volume of incoming options quotes.[3] The Exchange believes that Options Size Mitigation will help to prevent potential data delays and enhance our existing ability to manage market data traffic.

The recent growth in options quote message traffic is largely the result of the increase in the multiple trading of equity options, conversion to decimal pricing, technological advancements in options quoting systems, the dissemination of quotes with size and changes in market structure through the greater use of electronic quoting systems by market participants and the options exchanges. In the past, the options exchanges together with the Options Price Reporting Authority (''OPRA'') discussed plans to develop strategies to mitigate options message traffic.[4] In addition, the ''Report of the Advisory Committee on Market Information: A Blueprint for Responsible Change'' (the ''Seligman Report'') issued in 2001 identified system capacity concerns as a problem for the options industry.[5] The Seligman Report also cited industry quote mitigation efforts.[6] However, to date, the options exchanges have not agreed to a quote mitigation strategy at the OPRA level.

Proposed Options Size Mitigation

During the last few months, the Exchange has made several upgrades to its systems to increase the ability of the Amex to handle increases in market data. The Exchange is continuing in these efforts to implement further enhancements to its system capacity so that the Exchange is able to handle expected increases in market data in the future.[7]

The continuing increases in options industry quote traffic rates have challenged the Exchange's ability (as well as the industry on a whole) to process market data in a timely manner. The Exchange believes that the proposed Options Size Mitigation policy is beneficial and will enhance our ability to process inbound quote traffic and help prevent market data delays. As detailed below, the Exchange submits that when Options Size Mitigation is in effect, specialists will nonetheless be able to comply with their trade-through and best execution obligations.

Under Options Size Mitigation, during high quote volume periods and peaks, incoming market data will be filtered prior to being forwarded to floor trading systems. When in effect, Options Size Mitigation will filter market data by not processing incoming quotes (*i.e.* away market quotes) with size changes below a variable percent. However, Amex systems will always maintain and display Amex quotations with accurate size regardless of whether Options Size Mitigation is in effect.

For example, if the filtering is set at 10%, away market quotations that change (*i.e.*, increase or decrease) the existing size of the quotation by 10% or less would not be forwarded to floor trading systems or displayed to specialists. The filtering level would be set on an exchange-wide basis, based on either the number of MPS exceeding a predefined amount or when a delay of a predetermined length has occurred in the processing of market data.

The Exchange submits that the initial Options Size Mitigation filtering level will be set at 10% with the ability to increase the filtering level in 10% level increments as warranted. The head of the Exchange's Floor Operations (or his designee), in conjunction with two (2) Senior Floor Officials, will determine the appropriate filtering level. The Exchange will ensure that all options market data (including filtered quotes) is available for regulatory and surveillance purposes.

When Options Size Mitigation is in effect, an announcement will be made on the trading floor, advising members regarding the level of filtering. As a result, specialists will be able to assess (when the Amex is not the NBBO) the potential that the size of an away market NBBO quotation may be inaccurate. Thus, if a 10% filtering is in effect, for any potentially affected orders, the specialist would be required to view a third-party quotation vendor in order to verify whether the displayed size is accurate. Based on a 10% filtering level, only those orders that are greater than 10% below the NBBO size would potentially be affected. For example, if the displayed NBBO size from an away market is 1,000 contracts, any order size between 900 and 1,100 contracts would potentially be affected under Options Size Mitigation. Therefore, reliance on third-party quotation vendors by specialists is especially important for away market quotes when Options Size Mitigation is in effect.

To the extent that the NBBO quotation size (when the Amex is not the NBBO) is inaccurate and/or the specialist does not have time to view a third-party vendor, he or she will need to determine whether it is necessary to send the full order size to the away market. If the specialist does not send the full order to the away market, he or she will need to wait for a response from the away market prior to taking any action with respect to the balance of the order.

Certain Linkage Plan and related Amex Rule obligations are premised on

[3] In January 2000, OPRA capacity was 3,000 messages per second (''MPS'') with an expectation during the year to increase to 8,000 and 12,000 MPS, respectively. As an example, one-minute and five-minute peak output rates in March 2000 were 3,515 and 3393 MPS, respectively. OPRA in 2001 increased system capacity to 24,000 MPS. Moving forward to October 2005, the current system capacity is 125,000 MPS with one-minute and five-minute peak output rates of 86,342 MPS (9/27/05) and 70,783 MPS (10/05/05), respectively.

[4] In December 1999, the Securities Industry Automation Corporation (''SIAC'') and SRI Consulting issued a report entitled ''Mitigating Options Message Traffic'' (the ''SRI Study'') recommending short-term and long-term solutions to the growth in options message traffic at that time. The recommendations focused on a reduction in the number of products quoted and traded. The options exchanges collectively have not agreed to the recommendations of the SRI Study.

[5] The Seligman Report maintained that capacity concerns exist at every level in the distribution chain of options market date: The options exchanges, the consolidator (SIAC), vendors and broker-dealers. In addition, due to the nature of the options business, a far larger volume of options information is disseminated than occurs in the equity markets. As reported in the Seligman Report, options data accounts for approximately 70–80% of U.S. market data traffic. This percentage may have actually increased since 2001 due to the exponential growth during the last few years in options quoting.

[6] The Seligman Report noted that the options exchange have been working on appropriate quote mitigation strategies as follows: (1) A ''request-for-quote'' system for less actively-traded options series; (2) more stringent listing standards and more aggressive delisting policies; (3) desensitization of auto-quote systems; and (4) modification of the ''firm quote rule'' to reduce the need to auto-quote ''out-of-the-money'' and away from the market quotes.

[7] The Exchange notes that system capacity at the OPRA level is 125,000 MPS. This level is expected to increase to 149,000 MPS on January 1, 2006.

quotation sizes being disseminated by the exchanges. For example, the definition of Firm Customer Quote Size (''FCQS'') in Section 2 of the Linkage Plan refers to disseminated quotation sizes. In addition, the obligation to provide an automatic execution is premised on the size of a Linkage Order being no larger than the FCQS.[8] In all cases, the Exchange pursuant to the Linkage Plan and related rules is required to provide an execution for at least the FCQS.

The Commission recently approved Linkage Plan Amendment No. 16 and related Exchange Rules defining FCQS as the number of option contracts that the Participant Exchange[9] receiving a Principal Acting as Agent (''P/A'')[10] Order guarantees it will automatically execute at its disseminated quotation in a series of an eligible option class for public customer orders entered directly for execution in that market.[11] The Exchange recently incorporated a change into its systems to accommodate the change to FCQS. As result, inbound P/A Orders are executed up to the size of the disseminated quotation for that series of an eligible options class rendering unnecessary the size of the sending Participant Exchange's quotation. In this manner, the Exchange is fully compliant with the current definition of FCQS.

The Exchange submits that the vast majority of its options orders will be largely unaffected by the Options Size Mitigation policy. The typical order size that the Exchange receives is approximately twenty (20) contracts. As set forth above, the significance of displayed options quotations sizes concerns the Exchange's obligation to provide an execution through the Options Linkage in an amount equal to the FCQS. In connection with the Exchange's ANTE system, FCQS is largely determined by the maximum order size eligible for automatic execution (the ''auto-match'' size). The '≤Options Trading Committee has determined that the auto-match size for any option class in ANTE is the disseminated quotation size. Because under Options Size Mitigation, all Amex quotations will be displayed, specialists will be able to fully comply with their regulatory obligations without additional changes or adjustments. Furthermore, the actual size of the disseminated quotation of another options exchange does not also impact a specialist's obligations under the Options Linkage due to the definition of FCQS, and therefore, specialists will be able to rely on the Amex displayed quotation without using a thirty-party market data vendor. Similarly, Firm Principal Quotation Size or ''FPQS'' will not be affected by Options Size Mitigation because FPQS is defined as the number of option contracts that a Participant Exchange guarantees it will execute at its disseminated quotation for incoming principal orders in an eligible option class.[12] As a result, since the Exchange will always display its quotes with size, specialists will be able to properly execute principal orders received through the Linkage.

Linkage Plan Amendment No. 15 (Trade and Ship and Book and Ship)[13] and related Exchange rules[14] were also recently approved by the Commission providing that (i) an exchange may trade an order at a price that is one-tick inferior to the NBBO if a Linkage Order is transmitted to the NBBO market(s) to satisfy all interest at the NBBO price (this is the ''trade and ship'' concept); and (ii) an exchange may book an order that would lock another exchange if a Linkage Order is sent to such other exchange to satisfy all interest at the lock price (this is the ''book and ship'' concept). At a 10% filtering level for Options Size Mitigation, specialists would need to know the size of away market quotations in order to take full advantage of the ''trade and ship'' and ''book and ship'' concepts for orders greater than the 10% filter (*i.e.*, increases or decreases). For smaller orders (those less than the 10% filter), Options Size Mitigation would have a limited effect, if any, so that specialists would be able to process orders in the normal fashion. When Options Size Mitigation is in effect, specialists to fully know and understand the depth of size of away markets would need to use a third-party market data vendor.

The Exchange submits that Options Size Mitigation will offer greater ability and flexibility to manage inbound quote traffic. Given the exponential increase in options quote traffic rates in recent years, the Exchange believes that Options Size Mitigation is a necessary tool in connection with the processing of quote traffic.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[15] in general and furthers the objectives of Section 6(b)(5)[16] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form at *http://www.sec.gov/rules/sro.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–Amex–2005–115 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary,

[8] *See* Amex Rule 941(e).

[9] ''Participant Exchange'' is defined in Amex Rule 940(b)(14) to mean a registered national securities exchange that is a party to the Linkage Plan.

[10] A P/A Order is defined in Amex Rule 940(b)(10)(i) to mean an order for the principal account of a specialist (or equivalent entity on another Participant Exchange that is authorized to represent customer orders), reflecting the terms of a related unexecuted public customer order for which the specialist is acting as agent.

[11] *See* Securities Exchange Act Release Nos. 52656 (October 24, 2005), 70 FR 66477 (November 2, 2005) (approval of Joint Amendment No. 16 to the Intermarket Option Linkage Plan Relating to the Definition of Firm Customer Quote Size and Restrictions on Sending Certain Principal Acting as Agent Orders; File No. 4–429) and 52657 (October 24, 2005), 70 FR 65941 (November 1, 2005) (approving the rules of the options exchanges).

[12] The definition of FPQS further provides a minimum size of 10 contracts, however if the Participant Exchange is disseminating a quotation size of less than 10 contracts, then the FPQS may equal such quotation size.

[13] *See* Securities Exchange Act Release No. 52413 (September 13, 2005), 70 FR 55185 (September 20, 2005) (Order Approving Amendment No. 15 to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage Relating to a ''Trade and Ship'' Exception to the Definition of ''Trade-Through'' and a ''Book and Ship'' Exception to the Locked Markets Provision).

[14] *See* Securities Exchange Act Release No. 52414 (September 13, 2005), 70 FR 55186 (September 20, 2005) (SR–Amex–2005–046).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–9303.

All submissions should refer to File No. SR–Amex–2005–115. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site at *http://www.sec.gov/rules/sro.shtml.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2005–115 and should be submitted on or before December 6, 2005.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Section 6 of the Act [17]and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[19]

The Commission believes that the proposed rule change should enhance the Amex's ability to process an increasing volume of incoming options quotes during high option quote volume periods and peaks. The Commission also believes that the Options Size Mitigation program should help to limit potential data delays of incoming data without limiting the dissemination of Exchange participants' quotes and orders.

The Amex has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice thereof in the **Federal Register.** The Commission believes that granting accelerated approval of the proposal will allow the Amex to immediately implement the Options Size Mitigation program and thus, should facilitate the processing of an increasing volume of incoming options quotes and should avoid potential data transmission delays. Furthermore, the Commission notes that the current pilot program was approved on a temporary four-month basis to allow the Commission an opportunity to solicit comments on the proposed rule change and to evaluate the impact of the proposal on the options market. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[20] for approving the proposed rule change prior to the thirtieth day after publication of the notice thereof in the **Federal Register.**

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change, as amended (SR–2005–115), is hereby approved on an accelerated basis for a four-month pilot period to expire on March 5, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Jonathan G. Katz,

Secretary.

[FR Doc. E5–6263 Filed 11–14–05; 8:45 am]

BILLING CODE 8010–01–P

[17] 15 U.S.C. 78f.

[18] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78s(b)(2).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Commercial Refrigerator Equipment.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Commercial Refrigerator Equipment. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses, service disabled veteran-owned small businesses or SBA's 8(a) Business Development Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: This waiver is effective November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding

system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on July 25, 2005 to waive the Nonmanufacturer Rule for Commercial Refrigerator Equipment. In response, on September 26, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Commercial Refrigerator Equipment.

SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer for Commercial Refrigerator Equipment, NAICS 423740.

Authority: 15 U.S.C. 637(A)(17).

Dated: November 1, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–22566 Filed 11–14–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice to waive the Nonmanufacturer Rule for Photographic Film, Paper, Plate, and Chemical Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Photographic Film, Paper, Plate, and Chemical Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses, service disabled veteran-owned small businesses or SBA's 8(a) Business Development Program. The purpose of this notice is to solicit comments and potential source information from interested parties.

DATES: This waiver is effective November 30, 2005.

FOR FURTHER INFORMATION CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on August 19, 2005 to waive the Nonmanufacturer Rule for Photographic Film, Paper, Plate, and Chemical Manufacturing. In response, on September 26, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Photographic Film, Paper, Plate, and Chemical Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer for Photographic Film, Paper, Plate, and Chemical Manufacturing, NAICS 325992.

Authority: 15 U.S.C. 637(A)(17).

Dated: November 1, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–22567 Filed 11–14–05; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment.

SUMMARY: The U. S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment. The basis for waivers is that no small business manufacturers are supplying this class of product to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: This waiver is effective November 30, 2005.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a

contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code required as a data entry field by the Federal Procurement Data System.

The SBA received a request on September 2, 2005 to waive the Nonmanufacturer Rule for Household Refrigerator Equipment. In response, on September 26, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Household Refrigerator Equipment. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products.

In response to this notice, no comments were received from interested parties. SBA has determined that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for Household Refrigerator Equipment, NAICS 423620.

Authority: 15 U.S.C. 637(a)(17).

Dated: November 1, 2005.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. 05–22568 Filed 11–14–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5227]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates indicated pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

DATES: *Effective Date:* As shown on each of the 23 letters.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Berry, Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202) 663–2806.

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

June 9, 2005.

Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the transfer of technical data, assistance, including training, and manufacturing know-how to Australia for the manufacture of the RAN SEA 4000 Air Warfare Destroyer (AWD) for end-use in Australia.

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Matthew A. Reynolds,

Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 009–05.

June 21, 2005.

Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 2,300 Armalite M15 rifles, 200 Armalite M15 carbines and supporting equipment to the Ghana Armed Forces, Ministry of Defense, Government of Ghana.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Matthew A. Reynolds,

Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DTC 003–05.

June 30, 2005.

Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 3,000 .38 caliber revolvers, 500 9mm pistols, 500 12 gauge shotguns, 200 Mini-14 rifles and 100 M4 carbines to the Haiti National Police, Government of Haiti.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Matthew A. Reynolds,

Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DDTC 010–05.

June 30, 2005.

Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under Category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of Browning bolt-action, lever-action, semi-automatic rifles and pistols (calibers: .22, .25–06, .270, .30–06, 30–30, .300, .308, .338, .357, .358, .44, .45, 7mm and .223) for the distribution by Browning International in Belgium for the following sales territories: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and the United Kingdom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Matthew A. Reynolds,

Acting Assistant Secretary Legislative Affairs.

Enclosure: Transmittal No. DTC 012–05.

July 5, 2005.

Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles or defense

services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and hardware to Japan for the manufacture of the AN/APG–63(V)0 radar system kits for the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 023–05.

July 5, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed technical assistance agreement for the manufacture of significant military equipment abroad.

The transaction contained in the attached certification involves the export of defense services, to include build-to-print specifications to Terralogic, United Kingdom for the manufacture of components of Joint Biological Point Detection Systems (JBPDS) for end-use by the U.S. Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 016–05.

July 14, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of technical data, assistance and manufacturing know-how to Australia for the manufacture of 20mm and 25mm ammunition articles for end-use in Australia, New Zealand, Brunei and Papua New Guinea.

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 004–05.

July 22, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and hardware to Luxembourg and Sweden for the design, production and launch of the Sirius-4 and Sirius-4R commercial communications satellites for Luxembourg.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 011–05.

July 22, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export and launch of commercial communications satellites, and related support equipment to Russia and Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 026–05.

July 29, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia, Ukraine and Norway (and Korea and France pertaining to Koreasat V) related to the launch of all commercial and foreign non-commercial satellites from the Pacific Ocean utilizing a modified oil platform.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 024–05.

July 29, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia and Kazakhstan related to the launch of all commercial and foreign non-commercial satellites using the Proton Space Launch Vehicle from the Baikonur Cosmodrome in Kazakhstan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely, Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 025–05.

August 4, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and defense services and hardware to the United Kingdom and Canada for the design, manufacture and sale of Bowan Communications Systems for end use in the United Kingdom for the United Kingdom Royal Armed Services.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 097–04.

August 4, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the temporary export of one (1) EchoStar X fully fueled A2100 commercial communications satellite and launch operations support equipment to Sea Launch Company, LLC and the Boeing Company for a Pacific Ocean launch December 2005.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 008–05.

August 4, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of technical data, assistance and manufacturing know-how to Japan for the manufacture, testing, integrating, training, and repair and maintenance of the LN–31 Inertial Navigation System for the Japan Defense Agency's F–15J aircraft.

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 019–05.

August 4, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export to Japan of defense articles for the overhaul and manufacture of SIIIS–3XT4/T4 Ejection Seats for use in Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 020–05.

August 4, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles related to armored security vehicles (ASV APCs) and armored security vehicle command vehicle for end-use by the Iraqi Ministry of the Interior/Civil Intervention Force in Support of Operation Iraqi Freedom.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 035–05.

September 6, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more.

The transaction contained in the attached certification involves the export of Goalkeeper Guns and Gun Mounts to South Korea for use by the South Korean Navy for anti-ship missile defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 029–05.

September 6, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract in the amount of $1,000,000 or more.

The transaction contained in the attached certification involves the export of 5,519 Smith & Wesson, .38 caliber, Model 37 revolvers. These weapons are being sold to the National Police Agency of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 034–05.

September 28, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services, and hardware to Japan for design, production and launch of the BSAT–3a commercial communications satellite for Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 027–05.

September 28, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad.

The transaction described in the attached certification involves the transfer of technical information, including hardware and services for licensed production of the Evolved SeaSparrow Missile (ESSM) for ultimate sale to and end-use by the Japan Defense Agency (JDA).

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DDTC 030–05.

September 28, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the temporary export of one (1) JCSAT 9 fully fueled commercial communications satellite and launch operations support for a Pacific Ocean launch December 2005.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 045–05.

October 21, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer to Canada of technical data, defense services, and defense articles necessary to support the modernization of CF–18 aircraft for the end use by the Canadian Department of National Defense.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 031–05.

October 21, 2005.
Hon. J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment and defense articles in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the transfer to Commonwealth of Australia and the Government of Canada of additional technical data, defense services, and defense articles necessary to support the Royal Australian Air Forces F/A–18 Aircraft Mid-Life Hornet Upgrade Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Matthew A. Reynolds,
Acting Assistant Secretary Legislative Affairs.
Enclosure: Transmittal No. DTC 041–05.

Dated: November 4, 2005.

Peter J. Berry,

Director, Office of Defense Trade Controls, Licensing, Department of State.

[FR Doc. 05–22626 Filed 11–14–05; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 5226]

Update on Current Universal Postal Union Issues

AGENCY: Department of State.

ACTION: Notice of briefing.

The Department of State will host a briefing on Wednesday, November 30, 2005, to provide an update on current Universal Postal Union issues, including the results of the October 2005 session of the UPU in Bern.

The briefing will be held from 1:30 p.m. until approximately 4:30 p.m., on November 30, 2005 in Room 1205 of the Department of State, 2201 C Street, NW., Washington, DC. The briefing will be open to the public up to the capacity of the meeting room of 50.

The briefing will provide information on the results of the October 2005 session of the UPU Council of Administration in Bern. Special attention will be paid to terminal dues, the UPU's efforts to measure service performance and achievement of UPU strategic plans, the U.S. Government strategic plan for the UPU, the work program of the Consultative Committee and further reform of the UPU. Deputy Assistant Secretary of State Terry Miller will chair the briefing.

Entry to the Department of State building is controlled and will be facilitated by advance arrangements. In order to arrange admittance, persons desiring to attend the briefing should, no later than close of business on November 29, 2005, notify the Office of Technical and Specialized Agencies, Bureau of International Organization Affairs, Department of State, preferably by fax. The name of the meeting and the individual's name, Social Security number, date of birth, professional affiliation, address and telephone number should be indicated. The fax number to use is (202) 647–8902. Voice telephone is (202) 647–1044. This request applies to both government and non-government individuals.

All attendees must use the main entrance of the Department of State at 22nd and C Streets, NW. *Please note that under current security restrictions, C Street is closed to vehicular traffic between 21st and 23rd Streets. Taxis may leave passengers at 21st and C*

Streets, 23rd and C Streets, or 22nd Street and Constitution Avenue. One of the following means of identification will be required for admittance: any U.S. driver's license with photo, a passport, or any U.S. Government agency identification card.

Questions concerning the briefing may be directed to Mr. Dennis Delehanty at (202) 647–4197 or via e-mail at *delehantydm@state.gov*.

Dated: October 27, 2005.

Dennis M. Delehanty,

Director for Postal Affairs, Department of State.

[FR Doc. 05–22627 Filed 11–14–05; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for the Sale of Aeronautical Property at Manchester Airport, Manchester, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comments.

SUMMARY: The FAA is requesting public comment on the City of Manchester, New Hampshire's request to sell a portion (3.98 acres) of Airport property. The property is located in the area of the Northeast Ramp off Perimeter Road and is identified as Tax Map 721, Lot 17E. The land is currently unimproved. The parcel will be swapped with another parcel of equal value needed for Airport development. Upon sale, the land will be utilized for hangar development. A portion of the property (2.58 acres) was acquired under the Surplus Property Act via deed dated August 16, 1968.

The disposition of proceeds from the disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before December 15, 2005.

ADDRESSES: Documents are available for review by appointment by contacting Mr. David Bush, Assistant Airport Director at Manchester Airport, One Airport Road, Manchester, New Hampshire 03103, Telephone 603–624–6539 or by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone 781–238–7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone 781–238–7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport property for aeronautical purposes.

Issued in Burlington, Massachusetts on October 31, 2005.

LaVerne F. Reid,

Manager, Airports Division, New England Region.

[FR Doc. 05–22577 Filed 11–14–05; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Tuesday,
November 15, 2005

Part II

Department of Transportation

Federal Transit Administration

Fiscal Year 2006 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements; Notice

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2006 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: Appendix A of this Notice contains the Federal Transit Administration's (FTA) comprehensive compilation of the certifications and assurances for Federal fiscal year 2006 to be used in connection with all Federal assistance programs that FTA administers during Federal fiscal year 2006. FTA is required by 49 U.S.C. 5323(n) to compile an annual list of certifications and assurances and publish them as required by 49 U.S.C. 5336(d)(2). Due to enactment of FTA's new authorizing legislation, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU), Pub. L. 109–59, Aug. 10, 2005, FTA's annual certifications and assurances have been revised to accommodate these legislative changes, as well as changes resulting from enactment of other recent Federal legislation.

DATES: These certifications and assurances were effective on October 1, 2005, the first day of Federal fiscal year 2006.

FOR FURTHER INFORMATION CONTACT: FTA staff in the appropriate Regional Office listed below. For copies of other related documents, see the FTA Web site at *http://www.fta.dot.gov* or contact FTA's Office of Administration at (202) 366–4022.

Region 1: Boston

States served: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
Telephone # 617–494–2055

Region 2: New York

States served: New York, New Jersey, and the Virgin Islands
Telephone # 212–668–2170

Region 3: Philadelphia

States served: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia
Telephone # 215–656–7100

Region 4: Atlanta

States served: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, Puerto Rico, South Carolina, and Tennessee
Telephone # 404–562–3500

Region 5: Chicago

States served: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin
Telephone # 312–353–2789

Region 6: Dallas/Ft. Worth

States served: Arkansas, Louisiana, Oklahoma, Texas, and New Mexico
Telephone # 817–978–0550

Region 7: Kansas City

States served: Iowa, Kansas, Missouri, and Nebraska
Telephone # 816–329–3920

Region 8: Denver

States served: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming
Telephone # 720–963–3300

Region 9: San Francisco

States served: Arizona, California, Hawaii, Nevada, Guam, American Samoa, and the Northern Mariana Islands
Telephone # 415–744–3133

Region 10: Seattle

States served: Alaska, Idaho, Oregon, and Washington
Telephone # 206–220–7954

SUPPLEMENTARY INFORMATION: Before FTA may award Federal financial assistance through a Federal grant or cooperative agreement, the Applicant must submit all certifications and assurances pertaining to itself and its project as required by Federal laws and regulations. These certifications and assurances must be submitted to FTA irrespective of whether the project is financed under the authority of 49 U.S.C. chapter 53, or Title 23, United States Code, or another Federal statute.

The Applicant's annual certifications and assurances for Federal fiscal year 2006 cover all projects for which the Applicant seeks funding during Federal fiscal year 2006 through the next fiscal year until FTA issues its annual certifications and assurances for Federal fiscal year 2007. An Applicant's annual certifications and assurances applicable to a specific grant or cooperative agreement generally remain in effect for either the duration of the grant or cooperative agreement to project closeout or the duration of the project or project property when a useful life or industry standard is in effect, whichever occurs later; EXCEPT, if the Applicant provides certifications and assurances in a later year that differ from certifications and assurances previously provided, the later certifications and assurances will apply to the grant, cooperative agreement, project, or project property, unless FTA permits otherwise.

Nevertheless, pursuant to 49 U.S.C. 3041(c)(3) of SAFETEA–LU, funds authorized or made available for Federal fiscal year 2005 shall be administered consistent with the applicable formula requirements of Transportation Equity Act for the 21st Century, TEA–21 (TEA–21), Pub. L. 105–178, June 9, 1998, as amended. As a result, to the extent that any one of the new Federal fiscal year 2006 certifications or assurances set forth in this document conflicts with the provisions of TEA–21, that new certification or assurance will not apply to Grants or Cooperative Agreements financed with funds obligated in Federal fiscal year 2006 that had been authorized or made available for Federal fiscal year 2005.

Background: Since Federal fiscal year 1995, FTA has been consolidating the various certifications and assurances that may be required of its Applicants and their projects into a single document for publication in the **Federal Register**. FTA intends to continue publishing this document annually, often in conjunction with its publication of the FTA annual apportionment Notice, which sets forth the allocations of funds made available by the latest U.S. Department of Transportation (U.S. DOT) annual appropriations act.

Effect of the Certifications and Assurances. In view of the many projects that will be implemented substantially by a subrecipient of the Applicant, FTA cautions the Applicant that, absent a written determination by FTA to the contrary, the Applicant will be responsible for compliance both by itself and by each of its subrecipients with all certifications and assurances the Applicant has selected that would involve the subrecipient or the subrecipient's activities with respect to the project. Thus, the Applicant itself is ultimately responsible for compliance with its certifications even though a project may be carried out in whole or in part by one or more subrecipients. Consequently, in providing certifications and assurances that involve the compliance of any prospective subrecipient, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of the certifications and assurances the Applicant has made.

Federal Fiscal Year 2006 Changes: Apart from minor editorial revisions, set forth below are significant changes to

FTA's certifications and assurances for Federal fiscal year 2006:

(1) The Categories of certifications and assurances have been expanded from sixteen (16) to twenty-three (23) to accommodate the different statutory provisions applicable to the new programs authorized under SAFETEA–LU and other adjustments FTA has made.

(2) Throughout the text of these Federal fiscal year 2006 certifications and assurances, the term ''public transportation'' has been substituted for ''mass transportation'' for consistency with the text of SAFETEA–LU.

(3) In the Introductory paragraph preceding the text of the certifications and assurances, the URL for the FTA Master Agreement for Federal fiscal year 2006 is identified at *http://www.fta.dot.gov/16874_16882_ENG_HTML.htm.*

(4) Category 01. The certifications and assurances for all Applicants have been revised as follows:

(a) The ''Procurement Compliance'' certification at subcategory 1.F has been transferred to a separate category.

(b) Former subcategory 1.G containing assurances, as set forth in OMB's SF–242B and SF–242F has been re-designated as subcategory 1.F.

(c) In re-designated subcategory 1.F, a reference to 49 U.S.C. 5307(k)(2), which exempts nonsupervisory employees of a public transportation system from Hatch Act restrictions, has been added to section (15). SAFETEA–LU amended 49 U.S.C. 5307 to specify this Hatch Act exemption.

(5) Category (02). No changes were made to Category 02, ''Lobbying Certification.''

(6) New Category (03). The ''Procurement Certification'' has been revised as follows:

(a) The ''Procurement Compliance'' certification is now located in a separate new Category (03) to accommodate an Applicant that has not yet self-certified its procurement system to FTA.

(b) Former Categories 03 through 05 have been re-designated as Categories 04 through 06.

(7) Re-designated Category 04. The ''Private Providers of Public Transportation'' certification has been revised as follows:

(a) New citations to FTA's planning requirements within SAFETEA–LU have been substituted for the former citations that have been repealed.

(b) Because the SAFETEA–LU amendment to 49 U.S.C. 5323(a)(1) deleted a reference to the Secretary of Labor's Certification of Public Transportation Employee Protective Arrangements, that reference has been deleted from the ''Protections for Private Providers'' certification.

(8) Re-designated Category 05. The ''Public Hearing'' certification has been revised to conform with the SAFETEA–LU amendment to 49 U.S.C. 5323(b), which requires a public hearing to be held for a capital project if that project affects significant economic, social, or environmental interests. Thus if the interests affected are not significant, the Applicant need not publish a notice asking whether a public hearing is needed.

(9) Re-designated Category 06. No changes were made to the ''Acquisition of Rolling Stock'' certification requiring pre-award and post-delivery reviews.

(10) New Category 07. The ''Acquisition of Capital Assets by Lease'' certification has been revised as follows:

(a) This certification formerly set forth in subcategory 13.B and has been transferred to a separate category to emphasize that the certification applies to any Applicants that seek to acquire capital assets by lease.

(b) Former Categories 06 through 12 have been re-designated as Categories 08 through 14.

(11) Re-designated Category 08. The ''Bus Testing'' certification has been revised to clarify that FTA is maintaining one bus testing facility, currently, the Bus Testing Center at Altoona, Pennsylvania.

(12) Re-designated Category 09. The ''Charter Service Agreement'' certification has been revised as follows:

(a) The ''Charter Service Agreement'' has been revised to indicate that FTA's charter provisions apply to public transportation projects financed with Federal assistance provided for 23 U.S.C. 133, or 23 U.S.C. 142, as set forth in section 3023(g) of SAFETEA–LU.

(b) As authorized by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to the New Freedom Program to the extent the Federal Transit Administrator, as the designee of the U.S. Secretary of Transportation, determines appropriate, the Federal Transit Administrator has determined that the Charter Service restrictions of 49 U.S.C. 5323(d) are not appropriate for the New Freedom Program to provide consistency with the Charter Service exemption provided for the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.

(13) Re-designated Category 10. The ''School Transportation Agreement'' has been revised to indicate that FTA's school transportation provisions apply to public transportation projects financed with Federal assistance provided for 23 U.S.C. 133, or 23 U.S.C. 142, as set forth in section 3023(g) of SAFETEA–LU.

(14) Re-designated Category 11. No change has been made to the ''Demand Responsive Service'' certification.

(15) Re-designated Category 12. No change has been made to the ''Alcohol Misuse and Prohibited Drug Use'' certification.

(16) Re-designated Category 13. Due to amendments to 49 U.S.C. 5307, 5309, and new 5320, the ''Interest and Financing Costs'' certification has been revised to substitute updated citations.

(17) Former Category 13. The various certifications within former Category 13 ''Urbanized Area Formula Program'' have been treated as follows:

(a) The Urbanized Area Formula Program certifications in former subcategory 13.A have been transferred to a new Category 15 herein.

(b) The Job Access and Reverse Commute Program certifications in former subcategory 13.A have been transferred to a new Category 19 herein.

(c) The Clean Fuels Formula Grant Program certifications in Former subcategories 13.A and D have been deleted because that program has been repealed and replaced by the Clean Fuels Grant Program.

(d) The Acquisition by Lease certifications in Former subcategory 13.B have been transferred to new Category 07.

(e) Subcategory 13.C has been deleted because the special certification requirements for sole source procurement of associated capital maintenance items were rescinded as a result of SAFETEA–LU amendments to 49 U.S.C. 5325.

(18) Re-designated Category 14. The ''Intelligent Transportation Systems'' certification has been revised to add a reference to the new citation to Intelligent Transportation System architecture provisions established in the SAFETEA–LU amendments to the ITS program.

(19) Re-designated Category 15. The ''Urbanized Area Formula Program'' certifications previously set forth in former subcategory 13.A, have been transferred to re-designated Category 15. The following changes have been made to the previous certifications:

(a) A separate category limited to certifications for the Urbanized Area Formula Program has been established, and

(b) The SAFETEA–LU amendments to the certification requirements of 49 U.S.C. 5307(d)(1) have been implemented in the text of the ''Urbanized Area Formula Program'' certifications as follows:

1. Pursuant to amended 49 U.S.C. 5307(d)(1)(A), the Applicant's requirement to certify its legal, financial, and technical capacity to carry out its proposed program of projects now requires the Applicant to certify its capacity to carry out the safety and security aspects of that program.

2. Pursuant to amended 49 U.S.C. 5307(d)(1)(E), the Applicant is now required to certify that it will comply with 49 U.S.C. 5323 and 5325.

3. Pursuant to the new 49 U.S.C. 5307(d)(1)(K), an Applicant serving an urbanized area with a population exceeding 200,000 is now required to certify annually that it will spend at least one (1) percent of its Urbanized Area Formula Program funds for transit enhancements and report its transit enhancement expenditures for the preceding year to FTA.

(20) Re-designated Category 16. The new ''Clean Fuels Grant Program'' certifications include the following:

(a) In the introductory text immediately preceding the certifications, Applicants are notified that they will be ultimately responsible for their own compliance with Federal laws, regulations, and directives, and for compliance by any subrecipients participating in their projects.

(b) Because the Clean Fuels Grant Program is subject to the requirements of 49 U.S.C. 5307, certifications at 49 U.S.C. 5307(d)(1) have been adapted for that Program, except for the following certifications which are determined inapplicable.

1. Because 49 U.S.C. 5307(d)(1)(J) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for security projects, and 49 U.S.C. 5308 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5308, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(J) is inapplicable to the Clean Fuels Grant Program. If, however, 49 U.S.C. 5307 funding will be provided for projects within the Clean Fuels Grant Program, the Applicant will be required to comply with the security and transit enhancement expenditure provisions of 49 U.S.C. 5307(d)(1)(J).

2. Because 49 U.S.C. 5307(d)(1)(K) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for transit enhancements, and 49 U.S.C. 5308 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5308, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(K) is inapplicable to the Clean Fuels Grant Program. If, however, 49 U.S.C. 5307 funding will be provided for projects within the Clean Fuels Grant Program, the Applicant will be required to comply with the security and transit enhancement expenditure provisions of 49 U.S.C. 5307(d)(1)(K).

(c) The former special certification that vehicles financed under the Clean Fuels Formula Grant Program must be operated only with clean fuels, has not been included, because that requirement, formerly at 49 U.S.C. 5308(c)(2) was repealed when SAFETEA–LU amended former 49 U.S.C. 5308.

(21) Former Categories 14, 15, and 16 have been re-designated as Categories 17, 18, and 23, respectively.

(22) New Category 17. The ''Elderly Individuals and Individuals with Disabilities Formula Program'' (Formula Program) and the Elderly Individuals and Individuals with Disabilities Pilot Program'' (Pilot Program) certifications include the following:

(a) In the introductory text immediately preceding the certifications, Applicants are notified that they will be ultimately responsible for their own compliance with Federal laws, regulations, and directives, and for compliance by any subrecipients participating in their projects.

(b) The former certifications for the Formula Program, authorized under 49 U.S.C. 5310 have been revised as necessary to comply with SAFETEA–LU amendments and combined with certifications for the Pilot Program, authorized under subsection 3012(b) of SAFETEA–LU. Except to the extent that provisions for the Pilot Program expressly differ from the provisions for the Formula Program, Formula Program provisions will apply to projects within the Pilot Program.

(c) Because the Formula Program and Pilot Program are subject to the requirements of 49 U.S.C. 5307, certifications at 49 U.S.C. 5307(d)(1) are adapted for those programs. As authorized by 49 U.S.C. 5310(d)(1), however, the Federal Transit Administrator has determined that the following certifications required by 49 U.S.C. 5307(d)(1) are not appropriate for the Formula Program and Pilot Program:

1. Because the services financed under this program are designed specifically for and available primarily to the elderly and handicapped individuals, and because the half-fare provisions benefiting elderly individuals and handicapped individuals of 49 U.S.C. 5307(d)(1)(D) are focused on peak periods, and peak demand has not been relevant to the provision of these specialized services, the Federal Transit Administrator has determined that the half-fare requirements of 49 U.S.C. 5307(d)(1)(D) are not appropriate for the Formula Program or the Pilot Program.

2. Because 49 U.S.C. 5310 and section 3012b of SAFETEA–LU prescribe specific public participation, planning, and coordination provisions for the Formula Program and Pilot Program, Federal Transit Administrator has determined that the public participation, planning, and coordination provisions as specified in 49 U.S.C. 5307(d)(1)(F) are not appropriate for the Formula Program or Pilot Program.

3. The Federal Transit Administrator has determined that the requirements of 49 U.S.C. 5307(d)(1)(I) for a ''locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation'' are not appropriate for the Formula Program because by next fiscal year, 49 U.S.C. 5310(d)(2)(B) will expressly require a locally coordinated transportation plan from which projects are to be selected, while section 3012(b)(2) now requires a locally coordinated transportation plan from which projects within the Pilot Program are to be selected during this fiscal year.

4. Because 49 U.S.C. 5307(d)(1)(J) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for security projects, and neither 49 U.S.C. 5310 nor section 3012b of SAFETEA–LU contain a similar provision with respect to funds authorized under 49 U.S.C. 5310 or section 3012b of SAFETEA–LU, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(J) is inapplicable to the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program, and thus is not appropriate.

5. Because 49 U.S.C. 5307(d)(1)(K) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for transit enhancements, and neither 49 U.S.C. 5310 nor section 3012b of SAFETEA–LU contain a similar provision with respect to funds authorized under 49 U.S.C. 5310 or section 3012b of SAFETEA–LU, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(K) is inapplicable to the Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program, and thus is not appropriate.

(d) The requirements of 49 U.S.C. 5310(d)(2)(A) for coordination with private nonprofit providers before transferring funds authorized for 49 U.S.C. 5310 have been added.

(e) The planning certification requirements for the Elderly Individuals and Individuals with Disabilities Pilot Program required by section 3012(b)(2) of SAFETEA–LU have been added.

(23) New Category 18. Except for streamlining, the Nonurbanized Area Formula Program certifications have not changed substantially.

(24) New Category 19. The ''Job Access and Reverse Commute (JARC) Formula Grant Program'' certifications include the following:

(a) In the introductory text immediately preceding the certifications, Applicants are notified that they will be ultimately responsible for their own compliance with Federal laws, regulations, and directives, and for compliance by any subrecipients participating in their projects.

(b) The certifications and assurances for the Job Access and Reverse Commute (JARC) Program, previously set forth in former subcategory 13.A, have been transferred to new separate Category 19.

(c) The former certifications for the ''Job Access and Reverse Commute (JARC) Program'' that is now codified at 49 U.S.C. 5316 have been revised as necessary to comply with the SAFETEA–LU amendments to former section 3037 of the Transportation Equity Act for the 21st Century.

(d) The new codified citation to the JARC Formula Grant Program, 49 U.S.C. 5316, has been substituted for the previous uncodified citation to TEA–21.

(e) Because the JARC Formula Grant Program is subject to the requirements of 49 U.S.C. 5307, certifications at the amended 49 U.S.C. 5307(d)(1) have been adapted for that Program, except for the following certifications which the Federal Transit Administrator has determined are inapplicable:

1. Because 49 U.S.C. 5307(d)(1)(J) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for security projects, and 49 U.S.C. 5316 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5316, FTA has determined that the certification at 49 U.S.C. 5307(d)(1)(J) is inapplicable to the JARC Formula Grant Program.

2. Because 49 U.S.C. 5307(d)(1)(K) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for transit enhancements, and 49 U.S.C. 5316 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5316, FTA has determined that the certification at 49 U.S.C. 5307(d)(1)(K) is inapplicable to the JARC Formula Grant Program.

(25) New Category 20. The ''New Freedom Program'' certifications include the following:

(a) In the introductory text immediately preceding the certifications, Applicants are notified that they will be ultimately responsible for their own compliance with Federal laws, regulations, and directives, and for compliance by any subrecipients participating in their projects.

(b) Because the New Freedom Program is subject to the requirements of 49 U.S.C. 5307, certifications at 49 U.S.C. 5307(d)(1) have been adapted by that Program. As authorized by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to the New Freedom Program, the Federal Transit Administrator has determined that the following certifications required by 49 U.S.C. 5307(d)(1) and determined inappropriate for the Elderly Individuals and Individuals with Disabilities Formula Program, 49 U.S.C. 5310, are inappropriate for the New Freedom Program:

1. Because the services financed under this program are designed specifically for and will be available primarily to the elderly and handicapped individuals, and because the half-fare provisions benefiting elderly individuals and handicapped individuals of 49 U.S.C. 5307(d)(1)(D) are focused on peak periods, and peak demand is not expected to be relevant to the provision of these specialized services, the Federal Transit Administrator has determined that the half-fare requirements of 49 U.S.C. 5307(d)(1)(D) are not appropriate for the New Freedom Program. If, however, a New Freedom project will also be supported by Federal financial assistance derived from 49 U.S.C. 5307, the Applicant will be required to comply with the half-fare requirements of 49 U.S.C. 5307(d)(1)(K).

2. Because 49 U.S.C. 5317 prescribes specific public participation, planning, and coordination provisions for the New Freedom Program, Federal Transit Administrator has determined that the public participation, planning, and coordination provisions as specified in 49 U.S.C. 5307(d)(1)(F) are not appropriate for the New Freedom Program.

3. The Federal Transit Administrator has determined that the requirements of 49 U.S.C. 5307(d)(1)(I) for a ''locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation'' are not appropriate for the New Freedom Program because by next fiscal year, 49 U.S.C. 5317(f)(3) expressly requires a locally coordinated transportation plan from which projects are to be selected.

4. Because 49 U.S.C. 5307(d)(1)(J) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for security projects, and 49 U.S.C. 5317 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5317, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(J) is inapplicable to the New Freedom Program, and thus is not appropriate.

5. Because 49 U.S.C. 5307(d)(1)(K) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for transit enhancements, and 49 U.S.C. 5317 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5317, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(K) is inapplicable to the New Freedom Program, and thus is not appropriate.

(c) The requirements of 49 U.S.C. 5310(d)(2)(A) for coordination with private nonprofit providers before transferring funds authorized for 49 U.S.C. 5317 is included.

(26) New Category 21. Certifications for the new ''Alternative Transportation in Parks and Public Lands Program'' include the following:

(a) In the introductory text immediately preceding the certifications, Applicants are notified that they will be ultimately responsible for their own compliance with Federal requirements and for compliance by any subrecipients participating in their projects.

(b) Because the Alternative Transportation in Parks and Public Lands Program is subject to the requirements of 49 U.S.C. 5307, certifications at 49 U.S.C. 5307(d)(1) have been adapted for that Program. As authorized by 49 U.S.C. 5320(i), which makes the requirements of 49 U.S.C. 5307 applicable to the Alternative Transportation in Parks and Public Lands Program, the Federal Transit Administrator has determined that the following certifications required by 49 U.S.C. 5307(d)(1) are not appropriate for the Alternative Transportation in Parks and Public Lands Program:

1. The Federal Transit Administrator has determined that the requirements of 49 U.S.C. 5307(d)(1)(I) for a ''locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation'' are not appropriate for the Alternative Transportation in Parks and Public Lands Program

because the clear majority of prospective passengers and constituents that would benefit from the Alternative Transportation in Parks and Public Lands Program would not be local residents, but would encompass visitors from throughout the United States, and even the world.

2. Because 49 U.S.C. 5307(d)(1)(J) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for security projects, and 49 U.S.C. 5320 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5320, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(J) is inapplicable to the Alternative Transportation in Parks and Public Lands Program, and thus is not appropriate.

3. Because 49 U.S.C. 5307(d)(1)(K) requires the expenditure of one (1) percent of funds authorized under 49 U.S.C. 5307 for transit enhancements, and 49 U.S.C. 5320 does not contain a similar provision with respect to funds authorized under 49 U.S.C. 5320, the Federal Transit Administrator has determined that the certification at 49 U.S.C. 5307(d)(1)(K) is inapplicable to the Alternative Transportation in Parks and Public Lands Program, and thus is not appropriate.

(27) New Category 22. A new category of certifications has been established for ''Infrastructure Finance Projects'' because 49 U.S.C. 5323(o) makes the requirements of 49 U.S.C. 5307 and 5309 applicable to projects receiving Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6. Thus, the certification requirements of 49 U.S.C. 5307(d)(1), imposing administrative and project requirements, and 5309(g)(2)(B)(iii), imposing restrictions on Federal participation in interest costs, have been adapted for projects assisted through the Infrastructure Finance provisions of 23 U.S.C. chapter 6.

(28) New Category 23. The certifications and assurances for the SIB Program have been amended to enter the new citation to that Program resulting from enactment of Sections 1601 and 1602 of SAFETEA-LU. The SIB Program is now permanent law, codified at 23 U.S.C. 610, and that citation has been added to the certifications and assurances, as well as acknowledgment of revised planning requirements.

Text of Federal Fiscal Year 2006 Certifications and Assurances: The text of the certifications and assurances in Appendix A of this Notice appears at *http://www.fta.dot.gov/6092_16884_ENG_HTML.htm.* It also appears in TEAM-Web in the ''Recipients'' option of the Cert's & Assurances tab of ''View/Modify Recipients.'' It is important that each Applicant be familiar with all twenty-three (23) certification and assurance categories and their provisions, as they may be a prerequisite for receiving FTA financial assistance. Provisions of this Notice supersede conflicting statements in any FTA circular containing a previous version of FTA's annual certifications and assurances. The certifications and assurances contained in those FTA circulars are merely examples, and are not acceptable or valid for Federal fiscal year 2006; do not rely on the provisions of certifications and assurances appearing in FTA circulars.

Significance of Certifications and Assurances: Selecting and submitting certifications and assurances to FTA, either through TEAM-Web or submission of the Signature Page(s) of Appendix A, signifies the Applicant's intent to comply with and secure compliance by its subrecipients, if any, with the provisions of the certifications and assurances it has selected to the extent they apply to a project for which the Applicant submits an application for assistance in Federal fiscal year 2006. FTA cautions, however, that certifications and assurances required by law and regulation do not address all Federal laws, regulations, or directives with which an Applicant must comply before FTA may award Federal financial assistance. We therefore strongly encourage the Applicant to review the Federal authorizing legislation, regulations, and directives pertaining to the program or programs for which the Applicant seeks Federal assistance to determine the extent of all pre-award laws, regulations, or directives applicable to those programs.

Attorney's Affirmation: FTA requires a current (Federal fiscal year 2006) affirmation, signed by the Applicant's attorney, of the Applicant's legal authority to certify compliance with the provisions of the certifications and assurances the Applicant has selected. Irrespective of whether the Applicant makes a single selection for all twenty-three (23) categories or selects individual options from the twenty-three (23) categories, the Affirmation of Applicant's Attorney from a previous year is not acceptable, unless FTA expressly determines otherwise in writing.

Deadline for Submission: All Applicants for FTA formula program or capital investment program assistance, and current FTA grantees with an active project financed with FTA formula program or capital investment program assistance, are expected to provide certifications and assurances for Federal fiscal year 2006 within 90 days from the date of this publication or as soon as feasible after their first grant application for funds authorized or made available during Federal fiscal year 2006, whichever is earlier. In addition, FTA encourages Applicants seeking Federal financial assistance for other projects to submit their certifications and assurances as soon as possible.

Preference for Electronic Submission: Applicants registered in TEAM-Web must submit their certifications and assurances, as well as their applications for Federal assistance in TEAM-Web. Only if an Applicant is unable to submit its certifications and assurances in TEAM-Web should the Applicant use the Signature Page(s) in Appendix A of this Notice.

Procedures for Electronic Submission: The TEAM-Web ''Recipients'' option at the ''Cert's & Assurances'' tab of ''View/Modify Recipients'' contains fields for selecting among the twenty-three (23) Categories of certifications and assurances to be submitted. Within that tab is a field for the Applicant's authorized representative to enter its personal identification number (PIN), which constitutes the Applicant's electronic signature for the certifications and assurances it has selected. In addition, there is a field for the Applicant's attorney to enter his or her PIN, affirming the Applicant's legal authority to make and comply with the certifications and assurances the Applicant has selected. In certain circumstances, the Applicant may enter its PIN in lieu of its Attorney's PIN, provided that the Applicant has on file the Affirmation of Applicant's Attorney in Appendix A of this Notice, written and signed by the attorney and dated this Federal fiscal year. For more information, Applicants may contact the appropriate Regional Office listed in this Notice or the TEAM-Web Helpdesk.

Procedures for Paper Submission: If an Applicant is unable to submit its certifications and assurances electronically, it must mark the certifications and assurances it is making on the Signature Page(s) in Appendix A of this Notice and submit it to FTA. The Applicant may signify compliance with all Categories by placing a single mark in the appropriate space or select the Categories applicable to itself and its projects. In certain circumstances, the Applicant may enter its signature in lieu of its Attorney's signature in the Affirmation of Applicant's Attorney section of the Signature Page(s), provided that the

Applicant has on file the Affirmation of Applicant's Attorney in Appendix A of this Notice, written and signed by the attorney and dated in this Federal fiscal year 2006, and has submitted a copy of this affirmation to FTA. For more information, Applicants may contact the appropriate Regional Office listed in this Notice.

References. 49 U.S.C. chapter 53; the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109–59, Aug. 10, 2005; the Transportation Equity Act for the 21st Century, Pub. L. 105–178, June 9, 1998, as amended by the TEA–21 Restoration Act, Pub. L. 105–206, July 22, 1998; Title 23, United States Code, other Federal laws administered by FTA, U.S. DOT and FTA regulations at Title 49, Code of Federal Regulations; and FTA Circulars.

Dated: November 4, 2005.

Jennifer L. Dorn,

Administrator.

BILLING CODE 4910–57–P

Appendix A

FEDERAL FISCAL YEAR 2006 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for Federal Transit Administration (FTA) assistance programs. FTA requests each Applicant to provide as many certifications and assurances as needed for all programs for which the Applicant intends to seek FTA assistance during Federal Fiscal Year 2006. FTA strongly encourages each Applicant to submit its certifications and assurances through TEAM-Web, FTA's electronic award and management system, at http://ftateamweb.fta.dot.gov.

Twenty-three (23) Categories of certifications and assurances are listed by numbers 01 through 23 in the TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of "View/Modify Recipients," and on the opposite side of the Signature Page(s) at the end of this document. Category 01 applies to all Applicants. Category 02 applies to all applications exceeding $100,000. Categories 03 through 23 will apply to and be required for some, but not all, Applicants and projects.

FTA and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which FTA provides Federal financial assistance through a grant agreement or Cooperative Agreement. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109 -59, Aug. 10, 2005.

The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the current FTA Master Agreement MA(12) for Federal Fiscal Year 2006 at the FTA website http://www.fta.dot.gov/16874_16882_ENG_HTML.htm. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.

Because the number of provisions that could flow down to subrecipients are so extensive, we have removed the partial list of provisions pertaining to subrecipients formerly included within certifications and assurances for various specific programs to preclude a misunderstanding that those provisions listed fully encompass all Federal provisions that may be imposed on a subrecipient. As a result, we strongly recommend that each Applicant, including a state, that will be implementing projects through one or more subrecipients, secure sufficient documentation from each subrecipient to assure compliance, not only with these certifications and assurances, but also with the terms of the Grant Agreement or Cooperative Agreement for the project, and the Master Agreement incorporated therein by reference. Each Applicant is ultimately responsible for compliance with the provisions of these certifications and assurances irrespective of participation in the project by any subrecipient.

Appendix A

01. FOR EACH APPLICANT

Each Applicant for FTA assistance must provide all assurances in this Category "01." Unless FTA expressly determines otherwise in writing, FTA may not award any Federal assistance until the Applicant provides the following assurances by selecting Category "01."

A. Assurance of Authority of the Applicant and Its Representative

The authorized representative of the Applicant and the attorney who sign these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under applicable state and local law and the Applicant's by-laws or internal rules to:

(1) Execute and file the application for Federal assistance on behalf of the Applicant;
(2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
(3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes and regulations in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal laws, regulations, and directives will apply to the project, unless FTA issues a written determination otherwise.

C. Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance it submits to FTA has been or will be submitted for intergovernmental review to the appropriate state and local agencies as determined by the state. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

D. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT

Appendix A

regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Applicant retains ownership or possession of the project property, whichever is longer, the Applicant assures that:

(1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these provisions.

(3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.

(4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

(5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.

(6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

E. Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the

Appendix A

Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

F. U.S. Office of Management and Budget (OMB) Assurances

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Applicant assures that, with respect to itself or its project, the Applicant:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;
(2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;
(5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
    (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
    (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;
    (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;
    (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
    (e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 *et seq.* relating to nondiscrimination on the basis of drug abuse;

Appendix A

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;
(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and
(i) Any other nondiscrimination statute(s) that may apply to the project;

(6) To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Applicant assures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:
(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
(b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;
(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;
(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
(e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;
(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant's eligible costs of providing payments for

Appendix A

those expenses, as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;

(7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;

(8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more;

(9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;

(10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from FTA;

(11) To the extent required by FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;

(12) To the extent applicable, will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;

(13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the state;

(14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

Appendix A

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
(d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;
(e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;
(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
(i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
(j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
(k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;

(15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
(16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.,* and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;
(17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
(18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States,

Appendix A

Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and

(19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

02. LOBBYING CERTIFICATION

An Applicant that submits or intends to submit an application to FTA for Federal assistance exceeding $100,000 is required to provide the following certification. FTA may not award Federal assistance exceeding $100,000 until the Applicant provides this certification by selecting Category "02."

A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to FTA for Federal assistance exceeding $100,000:

(1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.

(3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, contracts under grants, loans, and cooperative agreements).

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

03. PROCUREMENT COMPLIANCE

In accordance with 49 CFR 18.36(g)(3)(ii), each Applicant that is a state, local, or Indian tribal governments that is seeking Federal assistance to acquire property or services in support of its

Appendix A

project is requested to provide the following certification by selecting Category "03." FTA also requests other Applicants to provide the following certification. An Applicant for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project, if FTA determines that its procurement practices and procurement system are incapable of compliance with Federal laws, regulations and directives governing procurements financed with FTA assistance.

The Applicant certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing.

04. PRIVATE PROVIDERS OF PUBLIC TRANSPORTATION

Each Applicant that is a state, local, or Indian tribal government that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any property or an interest in the property of a private provider of public transportation or to operate public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing private provider of public transportation is required to provide the following certification. FTA may not award Federal assistance for such a project until the Applicant provides this certification by selecting Category "04."

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires the property or an interest in the property of a private provider of public transportation or operates public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing public transportation company, it has or will have:

A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306;
B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
C. Paid just compensation under state or local law to the company for any franchise or property acquired.

05. PUBLIC HEARING

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification. FTA may not award Federal assistance for that type of project until the Applicant provides this certification by selecting Category "05."

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, it will have:

A. Provided an adequate opportunity for public review and comment on the project preceded by adequate prior public notice of the proposed project, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served;

Appendix A

B. Held a public hearing on the project if the project affects significant economic, social, or environmental interests after providing adequate notice as described above;
C. Considered the economic, social, and environmental effects of the proposed project; and
D. Determined that the proposed project is consistent with official plans for developing the urban area.

06. ACQUISITION OF ROLLING STOCK

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any rolling stock is required to provide the following certification. FTA may not award any Federal assistance to acquire such rolling stock until the Applicant provides this certification by selecting Category "06."

As required by 49 U.S.C. 5323(m) and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663 when procuring revenue service rolling stock. Among other things, the Applicant agrees to conduct or cause to be conducted the requisite pre-award and post-delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

07. ACQUISITION OF CAPITAL ASSETS BY LEASE

An Applicant that intends to request the use of Federal assistance to acquire capital assets by lease is required to provide the following certifications. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category "07."

As required by FTA regulations, "Capital Leases," at 49 CFR 639.15(b)(1) and 639.21, if the Applicant acquires any capital asset by lease financed with Federal assistance authorized for 49 U.S.C. chapter 53, the Applicant certifies as follows:
(1) It will not use Federal assistance authorized to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
(2) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

08. BUS TESTING

An Applicant for Federal assistance appropriated or made available for 49 U.S.C. chapter 53 to acquire any new bus model or any bus model with a new major change in configuration or components is required to provide the following certification. FTA may not provide assistance for the acquisition of any new bus model or bus model with a major change until the Applicant provides this certification by selecting Category "08."

Appendix A

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

A. Will have been tested at FTA's bus testing facility; and

B. Will have received a copy of the test report prepared on the bus model.

09. CHARTER SERVICE AGREEMENT

An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 to acquire or operate any public transportation equipment or facilities is required to enter into the following Charter Service Agreement. FTA may not provide assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C.133 or 142 for such projects until the Applicant enters into this Charter Service Agreement by selecting Category "09."

A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and each subrecipient and third party contractor at any tier will:
   (1) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects, only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its subrecipients or third party contractors at any tier desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and
   (2) Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects.

B. The Applicant understands that:
   (1) The requirements of 49 CFR part 604 will apply to any charter service it or its subrecipients or third party contractors provide,
   (2) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement, and
   (3) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

10. SCHOOL TRANSPORTATION AGREEMENT

An Applicant that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 to acquire or operate public transportation facilities and equipment is required to enter into the following School Transportation Agreement. FTA may not provide assistance for such projects until the Applicant enters into this agreement by selecting Category "10."

Appendix A

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant agrees that it and each subrecipient or third party contractor at any tier will:
   (1) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and
   (2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.

B. The Applicant understands that:
   (1) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients or third party contractors provide,
   (2) The definitions of 49 CFR part 605 will apply to this School Transportation Agreement, and
   (3) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

11. DEMAND RESPONSIVE SERVICE

An Applicant that operates demand responsive service and applies for direct Federal assistance authorized for 49 U.S.C. chapter 53 to acquire non-rail public transportation vehicles is required to provide the following certification. FTA may not award direct Federal assistance authorized for 49 U.S.C. chapter 53 to an Applicant that operates demand responsive service to acquire non-rail public transportation vehicles until the Applicant provides this certification by selecting Category "11"

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Applicant certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. When the Applicant's service is viewed in its entirety, the Applicant's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

If the Applicant is required to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "12"

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Applicant certifies that it has established

Appendix A

and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

13. INTEREST AND OTHER FINANCING COSTS

An Applicant that intends to request the use of Federal assistance for reimbursement of interest or other financing costs incurred for its capital projects is required to provide the following certification. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category "13."

As required by 49 U.S.C. 5307(g)(3), 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), 5309(i)(2)(C), and 5320(h)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

14. INTELLIGENT TRANSPORTATION SYSTEMS

An Applicant for FTA assistance for an Intelligent Transportation Systems (ITS) project, defined as any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture" is requested to provide the following assurance. FTA strongly encourages any Applicant for FTA financial assistance to support an ITS project to provides this assurance by selecting Category "14." An Applicant for FTA assistance for an ITS project that fails to provide this assurance, without providing other documentation assuring the Applicant's commitment to comply with applicable ITS standards and protocols, may be determined ineligible for award of Federal assistance for the ITS project.

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture."

A. As provided in 23 U.S.C. 5307(c), "the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a)." To facilitate compliance with 23 U.S.C. 5307(c), the Applicant assures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," at 66 *Fed. Reg.* 1455 *et seq.*, January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, United States Code, except to the extent that FTA expressly determines otherwise in writing.

Appendix A

B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, United States Code, the Applicant assures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

15. URBANIZED AREA FORMULA PROGRAM

Each Applicant for Urbanized Area Formula Program assistance authorized under 49 U.S.C. 5307 is required to provide the following certifications on behalf of itself and any subrecipients participating in its projects. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. If, however a "Designated Recipient" as defined at 49 U.S.C. 5307(a)(2)(A) enters into a Supplemental Agreement with FTA and a Prospective Grantee, that Grantee is recognized as the Applicant for Urbanized Area Formula Program assistance and must provide the following certifications.

Each Applicant required by 49 U.S.C. 5307(d)(1)(K) to expend at least one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements must list the projects carried out during that Federal fiscal year with those funds in its quarterly report for the fourth quarter of the preceding Federal fiscal year. That list constitutes the report of transit enhancement projects carried out during the preceding fiscal year that is required to be submitted as part of the Applicant's annual certifications and assurances, in accordance with 49 U.S.C. 5307(d)1)(K)(ii). Accordingly, the information in that quarterly report will be incorporated by reference and made part of the Applicant's annual certifications and assurances for this Federal fiscal year. FTA may not award Urbanized Area Formula assistance to any Applicant that has received Transit Enhancement funds authorized by former 49 U.S.C. 5307(k)(1), unless that Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year2005 has been submitted to FTA and includes the requisite list. Beginning Federal fiscal year 2007, FTA may not award Urbanized Area Formula Program assistance to any Applicant that is required by 49 U.S.C. 5307(d)(1)(K) to expend one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements unless that Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and includes the requisite list.

FTA may not award assistance for the Urbanized Area Formula Program to the Applicant until the Applicant provides these certifications and assurances by selecting Category "15."

As required by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;

Appendix A

B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities;
C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the Project equipment and facilities;
D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, not more than fifty (50) percent of the peak hour fare;
E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5307: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Urbanized Area Formula Program, 49 U.S.C. 5307, and the program of projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, a proposed program of projects for activities to be financed; (3) has published or will publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; (5) has ensured or will ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final program of projects; and (7) has made or will make the final program of projects available to the public;
G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process

to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

J. In compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent of its funds authorized by 49 U.S.C. § 5307 for public transportation security projects, unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

K. In compliance with 49 U.S.C. 5307(d)(1)(K), if the Applicant serves an urbanized area with a population of at least 200,000, (1) the Applicant will expend not less than one (1) percent of the amount it receives each fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if the Applicant has received Urbanized Area Program funds expended for transit enhancements as authorized by 49 U.S.C. 5307(k)(1), the Applicant will list those projects carried out with funds authorized under 49 U.S.C. 5307. If the Applicant's quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of transit enhancement projects it has implemented during that preceding fiscal year using those funds, the information in that quarterly report will fulfill the requirements of 49 U.S.C. 5307(d)1)(K)(ii), and thus that quarterly report will be incorporated by reference and made part of the Applicant's certifications and assurances.

16. CLEAN FUELS GRANT PROGRAM

Each Applicant for Clean Fuels Grant Program assistance authorized under49 U.S.C. 5308 is required to provide the following certifications pm behalf of itself and its subrecipients. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the Clean Fuels Grant Program until the Applicant provides these certifications by selecting Category "16."

As required by 49 U.S.C. 5308(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Clean Fuels Grant Program assistance, and 49 U.S.C. 5307(d)(1), the designated recipient or the recipient serving as the Applicant on behalf of the designated recipient, or the state or state organization serving as the Applicant on behalf of the state, certifies as follows:

A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;

B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

Appendix A

C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5308, not more than fifty (50) percent of the peak hour fare;

E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5308: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Clean Fuels Grant Program, 49 U.S.C. 5308, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of the proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5308(d)(2) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and

I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

Appendix A

17. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA PROGRAM AND PILOT PROGRAM

The state or state organization(state) that administers the Elderly Individuals and Individuals with Disabilities Formula Program and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program on behalf itself and its subrecipients is required to provide the following certifications on behalf of itself and each subrecipient. Unless FTA determines otherwise in writing, the state itself is ultimately responsible for compliance with its certifications and assurances even though even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the state is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the state has made to FTA. FTA may not award assistance for the Elderly Individuals and Individuals with Disabilities Formula Program or the Elderly Individuals and Individuals with Disabilities Pilot Program until the state provides these certifications by selecting Category "17."

A. As required by 49 U.S.C. 5310(d), which makes the requirements of 49 U.S.C. 5307 applicable to the Elderly Individuals and Individuals with Disabilities Formula Program to the extent that the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the state or state organization serving as the Applicant (state) and that administers, on behalf of the state, the Elderly Individuals and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, certifies and assures on behalf of itself and its subrecipients as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
   (5). In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5310(c), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
   (6). In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C.

Appendix A

5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for49 U.S.C. 5310.

C. The private nonprofit subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.

D. In compliance with 49 U.S.C. 5310(d)(2)(A) and section 3012(b)(2), the state certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services under 49 U.S.C. 5310;

E. In compliance with 49 U.S.C. 5310(d)(2)(C), the state certifies that allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5310 or subsection 3012b of SAFETEA-LU will be distributed on a fair and equitable basis; and

F. In compliance with Subsection 3012(b)(2) of SAFETEA LU, to the extent that the state is administering an Elderly Individuals and Individuals with Disabilities Pilot Program authorized by Subsection 3012(b) of SAFETEA-LU, the state certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

18. NONURBANIZED AREA FORMULA PROGRAM

The provisions of 49 U.S.C. 5311 establishing the Nonurbanized Area Formula Program do not impose, as a pre-conditions of award, explicit certification or assurance requirements for an Indian tribe or for a state or state organization that serves as the Applicant (state) for Nonurbanized Area Formula assistance and that administers the Nonurbanized Area Formula Program on behalf of a state.

In accordance with 49 U.S.C. 5311(c)(1), any Federal assistance authorized under 49 U.S.C. 5311 that is awarded directly to an Indian tribe will be subject to such terms and conditions as the Federal Transit Administrator or his or her designee may establish. (As of October 1, 2005, such terms and conditions for direct awards of Federal assistance to Indian tribes have not been established.)

Nevertheless, before FTA may award Nonurbanized Area Formula Program assistance, the U.S. Secretary of Transportation or his or her designee is required to make the pre-award

Appendix A

determination required by 49 U.S.C. 5311. Because certain information is needed before the Secretary or his or her designee can make those determinations, each state is requested to provide the following assurances on behalf of itself and its subrecipients. Unless FTA determines otherwise in writing, the state itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the state is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the state has made to FTA. A state that fails to provide these assurances on behalf of itself and its subrecipients may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5311 if FTA lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311. The state is thus requested to select Category "(18)."

The state or state organization serving as the Applicant (state) and that administers, on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311, assures on behalf of itself and its subrecipients as follows:

A. The state has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
B. The state has or will have satisfactory continuing control over the use of project equipment and facilities;
C. The state assures that the project equipment and facilities will be adequately maintained;
D. In compliance with 49 U.S.C. 5311(b)(2)(C)(i), the state's program has provided for a fair distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state;
E. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the state's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
F. The projects in the state's Nonurbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
G. The state has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
H. In compliance with 49 U.S.C. 5311(f), the state will expend not less than fifteen (15) percent of the amounts of Federal assistance authorized under 49 U.S.C. 5311 that have been provided to the state to develop and support intercity bus transportation within the state, unless the chief executive officer of the state, or his or her designee, after consultation with affected intercity bus service providers, certifies to the Federal Transit Administrator, apart from these certifications and assurances herein, that the intercity bus service needs of the state are being adequately met.

Appendix A

19. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

Each Applicant for Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Applicant has made to FTA.. FTA may not award Federal assistance for the JARC Formula Grant Program until the Applicant provides these certifications by selecting Category "19."

A. As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Applicant for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its subrecipients, if any, as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
   (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
   (6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for the JARC Formula Grant Program, 49 U.S.C. 5316, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has

Appendix A

published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

(7). In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(8). In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and

(9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;

C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;

D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services; and

E In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

20. NEW FREEDOM PROGRAM

Each Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 must

Appendix A

provide the following certifications on behalf of itself and any subrecipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective subrecipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each subrecipient, to assure the validity of all certifications and assurances the Applicant has made to FTA.. FTA may not award Federal assistance for the New Freedom Program until the Applicant provides these certifications by selecting Category "20."

A. As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its subrecipients, if any, as follows:
   (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including safety and security aspects of that program;
   (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
   (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
   (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5317: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
   (5). In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g), and if applicable by section 3012b(3) and (4), for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
   (6). In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

B. In compliance with 49 U.S.C. 5317(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in

cooperation with the appropriate MPO an areawide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or 49 U.S.C. 5317(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;

C. In compliance with 49 U.S.C. 5317(f)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project will has been or will have been coordinated with private nonprofit providers of services; and

D. In compliance with 49 U.S.C. 5317(e)(2), the Applicant certifies that any allocations to subrecipients of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis.

21. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS PROGRAM

Each State, tribal area, or local government authority that is an Applicant for Alternative Transportation in Parks and Public Lands Program assistance (Applicant) authorized by 49 U.S.C. 5320, is required to provide the following certifications. FTA may not award assistance for the Alternative Transportation in Parks and Public Lands Program assistance to the Applicant until the Applicant provides these certifications by selecting Category "21."

A. As required by 49 U.S.C. 5320(i), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

(1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed project, including safety and security aspects of that project;

(2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

(3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

(4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals, individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5320, not more than fifty (50) percent of the peak hour fare;

(5) In compliance with 49 U.S.C. 5307(d)(1)(E) in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5320, the Applicant: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

Appendix A

(6) In compliance with 49 U.S.C. 5307(d)(1)(F) and with 49 U.S.C.5320(e)(2)(C), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for the Alternative Transportation in Parks and Public Lands Program, 49 U.S.C. 5320, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

(7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available the amount of funds required by 49 U.S.C. 5320(f), and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and

(8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements).

B. In compliance with 49 U.S.C.5320(e)(2)(A), (B), and (D), the Applicant assures that it will:
(1) Comply with the metropolitan planning provisions of 49 U.S.C. 5303;
(2) Comply with the statewide planning provisions of 49 U.S.C. 5304; and
(3) Consult with the appropriate Federal land management agency during the planning process.

22. INFRASTRUCTURE FINANCE PROJECTS

Each Applicant for Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, is required to provide the following certifications. FTA may not award Infrastructure Finance assistance to the Applicant until the Applicant provides these certifications by selecting Category "22."

A. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5307 applicable to Applicants seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:
(1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including

Appendix A

safety and security aspects of that program;

(2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

(3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

(4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will ensure that elderly individuals and individuals with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 23 U.S.C. chapter 6 not more than fifty (50) percent of the peak hour fare;

(5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 23 U.S.C. chapter 6: (1) will use competitive procurement (as defined or approved by the Secretary), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;

(6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for Infrastructure Finance assistance, 23 U.S.C. chapter 6, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has ensured or will ensure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

(7). In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(8). In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

Appendix A

(9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

(10) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5307(d)(1)(J), each fiscal year, the Applicant will spend at least one (1) percent of those funds authorized under 49 U.S.C. § 5307 for public transportation security projects (this includes only capital projects in the case of a Applicant serving an urbanized area with a population of 200,000 or more), unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

(11) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5309(d)(1)(K): (1) an Applicant that serves an urbanized area with a population of at least 200,000 will expend not less than one (1) percent of the amount it receives each fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if it has received transit enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of the projects it has implemented during that fiscal year using those funds, and that report is incorporated by reference and made part of its certifications and assurances.

B. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5309 applicable to Applicants seeking Infrastructure Finance assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless it is eligible to receive Federal assistance for those expenses and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

23. DEPOSITS OF FEDERAL FINANCIAL ASSISTANCE TO STATE INFRASTRUCTURE BANKS

The state organization that administers the State Infrastructure Bank (SIB) Program on behalf of a state (state) and that is also an Applicant for Federal assistance authorized under 49 U.S.C. chapter 53 that it intends to deposit in its SIB is requested to provide the following assurances on behalf of itself, its SIB, and each subrecipient. Unless FTA determines otherwise in writing, the state itself is ultimately responsible for compliance with its certifications and assurances even though the SIB and a subrecipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its SIB and prospective subrecipients, the state is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from the SIB and each subrecipient, to assure the validity of all certifications and assurances the state has made to FTA.. FTA may not award

Appendix A

assistance for the SIB Program to the state until the state provides these assurances by selecting Category "23."

The state organization, serving as the Applicant (state) for Federal assistance for its State Infrastructure Bank (SIB) Program authorized by section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, agrees and assures the agreement of its SIB and the agreement of each recipient of Federal assistance derived from the SIB within the state (subrecipient) that each public transportation project financed with Federal assistance derived from SIB will be administered in accordance with:

A. Applicable provisions of section 1602 of SAFETEA, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181;
B. The provisions of the FHWA, FRA, and FTA or the FHWA and FTA cooperative agreement with the state to establish the state's SIB Program; and
C. The provisions of the FTA grant agreement with the state that provides Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that grant agreement will not apply if it conflicts with any provision of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, and Federal guidance pertaining to the SIB Program, the provisions of the cooperative agreement establishing the SIB Program within the state, or the provisions of the FTA grant agreement, and Federal guidance pertaining to the SIB Program, the provisions of the cooperative agreement establishing the SIB Program within the state, or the provisions of the FTA grant agreement, except to the extent FTA determines otherwise in writing;
D. The requirements applicable to projects of 49 U.S.C. 5307 and 5309, as required by 49 U.S.C. 5323(o); and
E. The provisions of any applicable Federal guidance that may be issued as it may be amended from time-to-time, unless FTA has provided written approval of an alternative procedure or course of action;

##

Selection and Signature Page(s) follow.

Appendix A

FEDERAL FISCAL YEAR 2006 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS

(Signature page alternative to providing Certifications and Assurances in TEAM-Web)

Name of Applicant: _____

The Applicant agrees to comply with applicable provisions of Categories 01 - 23. _____

OR

The Applicant agrees to comply with the applicable provisions of the following Categories it has selected:

Category	Description	
01.	For Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement Compliance.	_____
04.	Private Providers of Public Transportation.	_____
05.	Public Hearing.	_____
06.	Acquisition of Rolling Stock.	_____
07.	Acquisition of Capital Assets by Lease.	_____
08.	Bus Testing.	_____
09.	Charter Service Agreement.	_____
10.	School Transportation Agreement.	_____
11.	Demand Responsive Service.	_____
12.	Alcohol Misuse and Prohibited Drug Use.	_____
13.	Interest and Other Financing Costs.	_____
14.	Intelligent Transportation Systems.	_____
15.	Urbanized Area Formula Program.	_____
16.	Clean Fuels Grant Program.	_____
17.	Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.	_____
18.	Nonurbanized Area Formula Program.	_____
19.	Job Access and Reverse Commute Program.	_____
20.	New Freedom Program.	_____
21.	Alternative Transportation in Parks and Public Lands Program.	_____
22.	Infrastructure Finance Projects.	_____
23.	Deposits of Federal Financial Assistance to a State Infrastructure Banks.	_____

Appendix A

FEDERAL FISCAL YEAR 2006 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

AFFIRMATION OF APPLICANT

Name of Applicant: _____

Name and Relationship of Authorized Representative: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and directives applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2006.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in this document, should apply, as provided, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2006.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized in 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature_____ Date: _____

Name_____
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature_____ Date: _____

Name_____
Attorney for Applicant

Each Applicant for FTA financial assistance (except 49 U.S.C. 5312(b) assistance) and each FTA Grantee with an active capital or formula project must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.

[FR Doc. 05–22525 Filed 11–14–05; 8:45 am]
BILLING CODE 4910–57–C

Federal Register

Tuesday,
November 15, 2005

Part III

The President

Memorandum of November 10, 2005—Determinations Under Section 1106(a) of the Omnibus Trade and Competitiveness Act of 1988—Kingdom of Saudi Arabia

Federal Register
Vol. 70, No. 219
Tuesday, November 15, 2005

Presidential Documents

Title 3—

The President

Memorandum of November 10, 2005

Determinations Under Section 1106(a) of the Omnibus Trade and Competitiveness Act of 1988—Kingdom of Saudi Arabia

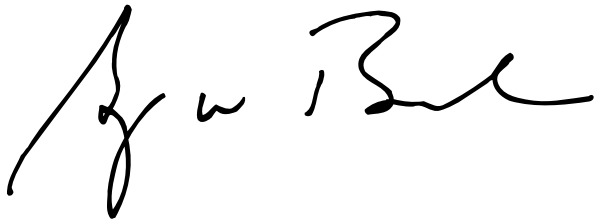
Memorandum for the United States Trade Representative

The Kingdom of Saudi Arabia (Saudi Arabia) is seeking to become a Member of the World Trade Organization (WTO). Saudi Arabia has concluded a bilateral agreement with the United States related to Saudi Arabia's accession to the WTO. Saudi Arabia's commitments under this bilateral agreement with the United States ensure: (1) that all state trading enterprises, as defined in section 1107(6) of the Omnibus Trade and Competitiveness Act of 1988 (the ''Act'') (19 U.S.C. 2906(6)), will make (a) purchases that are not for government use and (b) sales in international trade, in accordance with commercial considerations, including price, quality, availability, marketability, and transportation, and (2) that such state trading enterprises will afford U.S. business firms adequate opportunity, in accordance with customary practice, to compete for such purchases and sales.

In accordance with section 1106(a)(1) of the Act (19 U.S.C. 2905(a)(1)), I determine that state trading enterprises account for a significant share of the exports of Saudi Arabia and the goods that compete with imports into Saudi Arabia. Further, I determine that, based on the bilateral agreement that Saudi Arabia has entered into with the United States, information provided and commitments set forth in the Report of the Working Party on the Kingdom of Saudi Arabia's Accession to the WTO, and other information considered in connection with Saudi Arabia's WTO accession negotiations including information in the United States National Energy Policy report, an affirmative determination under section 1106(a)(2) is not warranted.

The determinations under section 1106(a) are intended solely to further the purpose of section 1106 and are not determinative for the purpose of any other statute or regulation.

You are directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, November 10, 2005.

[FR Doc. 05–22798
Filed 11–14–05; 11:32 am]
Billing code 3190–01–P

Reader Aids

Federal Register

Vol. 70, No. 219

Tuesday, November 15, 2005

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–741–6000**

Laws **741–6000**

Presidential Documents

Executive orders and proclamations **741–6000**

The United States Government Manual **741–6000**

Other Services

Electronic and on-line services (voice) **741–6020**

Privacy Act Compilation **741–6064**

Public Laws Update Service (numbers, dates, etc.) **741–6043**

TTY for the deaf-and-hard-of-hearing **741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal__register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

65825–66246 1
66247–66746 2
66747–67084 3
67085–67338 4
67339–67640 7
67641–67900 8
67901–68328 9
68329–69040 10
69041–69246 14
69247–69420 15

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7924 (Revoked by 7959) 67899
7951 66741
7952 67331
7953 67333
7954 67335
7955 67337
7956 67635
7957 67637
7958 67639
7959 67899
7960 69247

Executive Orders:
12170 (See Notice of November 9, 2005) 69039
13389 67325
13390 67327

Administrative Orders:
Presidential Determinations:
No. 2006-03 of October 24, 2005 65825
Notices:
Notice of November 1, 2005 66745
Notice of November 9, 2005 69039
Memorandums:
Memorandum of November 10, 2005 69419

5 CFR

532 69041
950 67339
2460 69041
Ch. XCIX 66116
9901 66116

6 CFR

Proposed Rules:
5 67931

7 CFR

82 67306
220 66247
457 67085
868 69249
987 67085
1427 67342

Proposed Rules:
319 67375
930 67375
984 67096

8 CFR

236 67087
239 67087
241 67087
287 67087

9 CFR

Proposed Rules:
93 67933

10 CFR

Proposed Rules:
20 68350
50 67598
63 67098
73 67380
600 69250
603 69250

12 CFR

201 69044
268 67641
611 67901
612 67901
614 67901
615 67901
620 67901

13 CFR

121 ..... 69045, 69048
301 69053
304 69053

Proposed Rules:
120 66800
121 68368

14 CFR

21 67345
25 69053
39 ..... 65827, 66250, 66747, 66749, 67644, 67901, 67904, 69056, 69059, 69061, 69063, 69065, 69067, 69069, 69071, 69073, 69075
71 ..... 65832, 66251, 67217, 68329, 69077
93 66253
97 ..... 65833, 66256, 69272, 69274
121 ..... 67345, 68330
135 67345
145 67345
183 67345

Proposed Rules:
21 68374
25 67278
39 ..... 65864, 66300, 66302, 67099, 67935, 67939, 67946, 67948, 67949, 67952, 68377, 68379, 68381, 68384, 69286, 69288, 69291
71 ..... 66305, 68386
73 66306
93 67388
121 65866
204 67389
389 68389

399.....67389

15 CFR

303.....67645
736.....67346
738.....67346
740.....67346
742.....67346
744.....67346
772.....67346
902.....67349

16 CFR

3.....67350

Proposed Rules:

305.....66307

17 CFR

232.....67350

18 CFR

Proposed Rules:

41.....65866
158.....65866
286.....65866
349.....65866

20 CFR

Proposed Rules:

404.....67101
411.....65871
416.....67101

21 CFR

Ch. I.....67650
25.....69276
520.....65835, 67352
558.....66257
878.....67353

Proposed Rules:

874.....67652
884.....69102

23 CFR

1345.....69078

24 CFR

81.....69022

25 CFR

Proposed Rules:

542.....69293

26 CFR

1.....67355, 67356, 67905
25.....67356
26.....67356
53.....67356
55.....67356
156.....67356
157.....67356
301.....67356

Proposed Rules:

1.....67220, 67397
25.....67397
26.....67397
53.....67397
55.....67397
156.....67397
157.....67397
301.....67397

28 CFR

503.....67090
522.....67091
523.....66752
542.....67090
543.....67090

Proposed Rules:

524.....66814

29 CFR

4022.....69277
4044.....69277

30 CFR

5.....67632
15.....67632
18.....67632
19.....67632
20.....67632
22.....67632
23.....67632
27.....67632
28.....67632
33.....67632
35.....67632
36.....67632

Proposed Rules:

250.....69118
251.....69118
280.....69118
948.....67654

31 CFR

103.....66754, 66761
210.....67364

32 CFR

581.....67367

Proposed Rules:

317.....66314
578.....66602

33 CFR

100.....68333, 69279
117.....66258, 66260, 67368, 68335
165.....65835, 65838, 69279
334.....67370

Proposed Rules:

155.....67066
157.....67066
165.....69128

34 CFR

673.....67373
674.....67373
675.....67373
676.....67373

36 CFR

212.....68264
251.....68264
261.....68264
295.....68264

38 CFR

17.....67093

39 CFR

Proposed Rules:

111.....66314, 67399

40 CFR

51.....68218
52.....65838, 65842, 65845, 65847, 66261, 66263, 66264, 66769, 68337, 69081, 69085
60.....66794
63.....66280
80.....69240
81.....66264, 68339, 69085
180.....67906, 67910
312.....66070

Proposed Rules:

51.....65984, 69302
52.....65873, 65984, 66315, 66316, 67109, 68389, 69130, 69302
60.....65873
63.....65873, 69210
81.....66315, 66316, 67109, 68390, 69130
82.....67120

41 CFR

102-71.....67786
102-72.....67786
102-73.....67786
102-74.....67786
102-75.....67786
102-76.....67786
102-77.....67786
102-78.....67786
102-79.....67786
102-80.....67786
102-81.....67786
102-82.....67786
102-83.....67786

42 CFR

419.....68516
423.....67568
484.....68132
485.....68516

44 CFR

64.....65849

45 CFR

670.....69098

Proposed Rules:

703.....67129
1621.....67954
1624.....67954
1631.....66814

46 CFR

388.....66796

Proposed Rules:

162.....66066

47 CFR

20.....67915
54.....65850
68.....67915
73.....66285, 66286, 66287, 66288

Proposed Rules:

73.....66329, 66330, 66331, 66332

48 CFR

2.....69100
31.....69100
239.....67917, 67918, 67919
242.....67919
243.....67921
244.....67922
250.....67923
252.....67919, 67920, 67924

Proposed Rules:

242.....67955

49 CFR

213.....66288
383.....66489
384.....66489
601.....67318

Proposed Rules:

385.....67405

50 CFR

17.....66664, 67924
635.....67929
648.....66797
660.....65861, 67349, 69282
679.....65863

Proposed Rules:

17.....66492, 66906, 67956, 68294, 68982, 69303
223.....67130
224.....67130
226.....66332
622.....67985, 69132
648.....65874

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT NOVEMBER 15, 2005

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

Unpublished copyright claims; preregistration; published 10-27-05

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Standard instrument approach procedures; published 11-15-05

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Assistance awards to U.S. non-Governmental organizations; marking requirements; Open for comments until further notice; published 8-26-05 [FR 05-16698]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

Eggs, poultry, and rabbit products; inspection and grading:

Shell egg grading definition; comments due by 11-25-05; published 9-26-05 [FR 05-19087]

Spearmint oil produced in—

Far West; comments due by 11-22-05; published 9-23-05 [FR 05-19084]

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Child nutrition programs:

Women, infants, and children; special supplement nutrition program—

Miscellaneous vendor-related provisions; comments due by 11-25-05; published 7-27-05 [FR 05-14873]

AGRICULTURE DEPARTMENT

Natural Resources Conservation Service

Reports and guidance documents; availability, etc.:

National Handbook of Conservation Practices; Open for comments until further notice; published 5-9-05 [FR 05-09150]

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Meetings; Sunshine Act; Open for comments until further notice; published 10-4-05 [FR 05-20022]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Environmental statements; notice of intent:

Western Pacific Fishery Management Council; comments due by 11-25-05; published 10-25-05 [FR 05-21301]

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleution Islands groundfish; comments due by 11-25-05; published 10-26-05 [FR 05-21385]

COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

DEFENSE DEPARTMENT

Acquisition regulations:

Pilot Mentor-Protege Program; Open for comments until further notice; published 12-15-04 [FR 04-27351]

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program—

Dental Program; National Defense Authorization Act changes (FY 2005); comments due by 11-21-05; published 9-21-05 [FR 05-18753]

Federal Acquisition Regulation (FAR):

Additional contract types for certain commercial services; comments due by 11-25-05; published 9-26-05 [FR 05-18965]

Time-and-materials and labor-hour contracts payments; comments due by 11-25-05; published 9-26-05 [FR 05-18964]

EDUCATION DEPARTMENT

Grants and cooperative agreements; availability, etc.:

Vocational and adult education—

Smaller Learning Communities Program; Open for comments until further notice; published 2-25-05 [FR E5-00767]

ENERGY DEPARTMENT

Meetings:

Environmental Management Site-Specific Advisory Board—

Oak Ridge Reservation, TN; Open for comments until further notice; published 11-19-04 [FR 04-25693]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Commercial and industrial equipment; energy efficiency program:

Test procedures and efficiency standards—

Commercial packaged boilers; Open for comments until further notice; published 10-21-04 [FR 04-17730]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Fed. Power Act), natural gas companies (Natural Gas Act), Natural Gas Policy Act, and oil pipelines (Interstate Commerce Act):

Contested audit matters; disposition procedures; comments due by 11-22-05; published 11-1-05 [FR 05-21422]

Electric utilities (Federal Power Act):

Preventing undue discrimination and preference in transmission services; comments due by 11-22-05; published 9-23-05 [FR 05-19003]

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Clause revisions; comments due by 11-25-05; published 10-25-05 [FR 05-21196]

Air programs:

Stratospheric ozone protection—

Class I ozone depleting substances; allowance adjustments for exports to Article 5 countries; comments due by 11-21-05; published 9-21-05 [FR 05-18832]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Massachusetts; comments due by 11-21-05; published 10-20-05 [FR 05-20984]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 11-25-05; published 10-25-05 [FR 05-21265]

Connecticut; comments due by 11-23-05; published 10-24-05 [FR 05-21195]

Maine; comments due by 11-23-05; published 10-24-05 [FR 05-21192]

Pennsylvania; comments due by 11-25-05; published 10-26-05 [FR 05-21372]

West Virginia; comments due by 11-21-05; published 10-20-05 [FR 05-20986]

Environmental statements; availability, etc.:

Coastal nonpoint pollution control program—

Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Pesticides; tolerances in food, animal feed and raw agricultural products:

Fenpropathrin; comments due by 11-22-05; published 9-23-05 [FR 05-19062]

Pesticides; tolerances in food, animal feed, and raw agricultural products

Kasugamycin; comments due by 11-22-05; published 9-23-05 [FR 05-19061]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Acetonitrile, etc.; comments due by 11-21-05; published 9-21-05 [FR 05-18831]

Amicarbazone; comments due by 11-22-05;

published 9-23-05 [FR 05-18951]
Aminopyridine, et al.; comments due by 11-21-05; published 9-21-05 [FR 05-18579]
Bacillus thuringiensis; comments due by 11-21-05; published 9-21-05 [FR 05-18582]
Boscalid; comments due by 11-21-05; published 9-21-05 [FR 05-18830]
Cyhexatin; comments due by 11-21-05; published 9-21-05 [FR 05-18581]
Improvalicarb; comments due by 11-21-05; published 9-21-05 [FR 05-18828]
Lindane; comments due by 11-21-05; published 9-21-05 [FR 05-18829]
Myclobutanil; comments due by 11-21-05; published 9-21-05 [FR 05-18417]
Pyridaben; comments due by 11-22-05; published 9-23-05 [FR 05-19058]
Reynoutria sachalinensis extract; comments due by 11-21-05; published 9-21-05 [FR 05-18725]
Radiation protection programs:
Yucca Mountain, NV; public health and environment radiation protection standards; comments due by 11-21-05; published 9-27-05 [FR 05-19256]
Water pollution control:
National Pollutant Discharge Elimination System—
Concentrated animal feeding operations in New Mexico and Oklahoma; general permit for discharges; Open for comments until further notice; published 12-7-04 [FR 04-26817]
Texas; general permit for territorial seas; Open for comments until further notice; published 9-6-05 [FR 05-17614]
Water pollution; effluent guidelines for point source categories:
Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

EXPORT-IMPORT BANK

Information disclosure:
Testimony of current and former Ex-Im Bank personnel and production of Ex-Im Bank records; comments due by 11-23-05; published 10-24-05 [FR 05-21147]

FEDERAL COMMUNICATIONS COMMISSION

Committees; establishment, renewal, termination, etc.:
Technological Advisory Council; Open for comments until further notice; published 3-18-05 [FR 05-05403]
Common carrier services:
Interconnection—
Incumbent local exchange carriers unbounding obligations; local competition provisions; wireline services offering advanced telecommunications capability; Open for comments until further notice; published 12-29-04 [FR 04-28531]
Frequency allocations and radio treaty matters:
Advanced wireless services; comments due by 11-25-05; published 10-26-05 [FR 05-21407]
Radio stations; table of assignments:
Oklahoma and Florida; comments due by 11-25-05; published 10-12-05 [FR 05-20353]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):
Additional contract types for certain commercial services; comments due by 11-25-05; published 9-26-05 [FR 05-18965]
Price evaluation adjustment; expiration; comments due by 11-22-05; published 9-30-05 [FR 05-19475]
Time-and-materials and labor-hour contracts payments; comments due by 11-25-05; published 9-26-05 [FR 05-18964]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
Power mobility devices; payment conditions; comments due by 11-25-05; published 8-26-05 [FR 05-17098]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Reports and guidance documents; availability, etc.:
Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]
Medical devices—
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

HEALTH AND HUMAN SERVICES DEPARTMENT

Medicare and medicaid:
Health Insurance Portability and Accountability Act; implementation—
Electronic health care claims attachments; standards; comments due by 11-22-05; published 9-23-05 [FR 05-18927]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:
Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
San Francisco Bay et al., CA; comments due by 11-21-05; published 9-22-05 [FR 05-18935]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Grants and cooperative agreements; availability, etc.:
Homeless assistance; excess and surplus Federal properties; Open for comments until further notice; published 8-5-05 [FR 05-15251]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species permit applications
Recovery plans—
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]
Migratory bird hunting:
Alaska; 2006 subsistance harvest regulations; comments due by 11-21-05; published 9-22-05 [FR 05-18972]

MERIT SYSTEMS PROTECTION BOARD

Practice and procedure:
Constructive removal complaints; filing by administrative law judges; comments due by 11-25-05; published 10-26-05 [FR 05-21389]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):
Additional contract types for certain commercial services; comments due by 11-25-05; published 9-26-05 [FR 05-18965]
Time-and-materials and labor-hour contracts payments; comments due by 11-25-05; published 9-26-05 [FR 05-18964]

NATIONAL CREDIT UNION ADMINISTRATION

Credit unions:
Insurance requirements; comments due by 11-21-05; published 9-21-05 [FR 05-18748]

NUCLEAR REGULATORY COMMISSION

Environmental statements; availability, etc.:
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

SECURITIES AND EXCHANGE COMMISSION

Securities:
Client commission practices; interpretative guidance; comments due by 11-25-05; published 10-25-05 [FR 05-21247]

SMALL BUSINESS ADMINISTRATION

Disaster loan areas:
Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

OFFICE OF UNITED STATES TRADE REPRESENTATIVE

Trade Representative, Office of United States

Generalized System of Preferences:
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Air carrier certification and operations:
Flightdeck door monitoring and crew discreet alerting systems; comments due by 11-21-05; published 9-21-05 [FR 05-18806]
Airworthiness directives:
Airbus; comments due by 11-21-05; published 9-21-05 [FR 05-18522]
Boeing; comments due by 11-21-05; published 10-6-05 [FR 05-20077]
British Aerospace; comments due by 11-21-05; published 9-21-05 [FR 05-18521]
Cessna; comments due by 11-21-05; published 10-25-05 [FR 05-21309]
Eurocopter France; comments due by 11-25-05; published 9-26-05 [FR 05-19148]
Fokker; comments due by 11-21-05; published 10-21-05 [FR 05-21054]
General Electric Co.; comments due by 11-23-05; published 10-24-05 [FR 05-21174]
Gippsland Aeronautics Pty. Ltd.; comments due by 11-25-05; published 10-25-05 [FR 05-21176]
Class E airspace; comments due by 11-25-05; published 10-26-05 [FR 05-21321]

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Fuel economy standards:
Light trucks; 2008-2011 model years; comments due by 11-22-05; published 8-30-05 [FR 05-17005]
Motor vehicle safety standards:
Roof crush resistance; comments due by 11-21-05; published 8-23-05 [FR 05-16661]

TREASURY DEPARTMENT
Internal Revenue Service
Employment taxes and collection of income taxes at source:
Federal Insurance Contributions Act; payments made for certain services; comments due by 11-25-05; published 8-26-05 [FR 05-16944]
Excise taxes:
Pension excise taxes; Health Saving Accounts; employer comparable contributions; comments due by 11-25-05; published 8-26-05 [FR 05-16941]
Income taxes:
Cost sharing arrangement; methods under section 482 to determine taxable income; public hearing
Correction; comments due by 11-25-05; published 9-28-05 [FR 05-19405]
Space and ocean activities and communications; source of income; public hearing; comments due by 11-23-05; published 9-19-05 [FR 05-18265]
Taxpayer Relief Act—
Roth IRAs; comments due by 11-21-05; published 8-22-05 [FR 05-16404]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2744/P.L. 109–97
Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Nov. 10, 2005; 119 Stat. 2120)

H.R. 2967/P.L. 109–98
To designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the ''Rosa Parks Federal Building''. (Nov. 11, 2005; 119 Stat. 2168)

H.R. 3765/P.L. 109–99
To extend through March 31, 2006, the authority of the Secretary of the Army to accept and expend funds contributed by non-Federal public entities and to expedite the processing of permits. (Nov. 11, 2005; 119 Stat. 2169)

S. 37/P.L. 109–100
To extend the special postage stamp for breast cancer research for 2 years. (Nov. 11, 2005; 119 Stat. 2170)

S. 1285/P.L. 109–101
To designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the ''Rosa Parks Federal Building''. (Nov. 11, 2005; 119 Stat. 2171)

Last List November 14, 2005

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.